



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10293 OF 2023

Diksha Sagar Kadam,
Age: 28 years, Occu: Household,
R/o: Kopargaon, Tal. Kopargaon,
Dist. Ahmednagar,
At present: Dombivali, Om Laxmi Sagar
Apartment, Flat No.5, Raju Nagar,
Dombivali (Best), Dist. Thane.

.....PETITIONER
(Orig. Plaintiff)

VERSUS

1. Suresh Jagannathrao Kadam,
Age: 62 years, Occu: Service,
R/o: In front of Om Nagar,
Balaji Residency, Old Takali Road,
Kopargaon, Tal. Kopargaon,
Dist. Ahmednagar.
2. Kusumbai Suresh Kadam,
Age: 58 years, Occu: Household.
3. Sagar Suresh Kadam,
Age: 34 years, Occu: Service.

R/Nos.2 and 3, R/o,
Kopargaon, Tal. Kopargaon,
Dist. Ahmednagar,
At Present: Dombivali, Om Laxmi Sagar,
Apartment, Flat No.5, Raju Nagar,
Dombivali (Best), Dist. Thane.
4. Branch Officer,
District Ahmednagar Central Co-op.
Bank Ltd; Ahmednagar Branch Kopargaon
(Co-operative Courts Building),
Tal. Kopargaon, Dist. Ahmednagar.

.....RESPONDENTS
(Orig. Defendants)

Mr. A. A. Fulfagar, Advocate for the Petitioner
 Mr. S. S. Chapalgaonkar, Advocate for Respondent no.1
 Mr. R. A. Tambe, Advocate for Respondent no.4

CORAM : AJIT B. KADETHANKAR, J.

DATED : 31ST AUGUST, 2026

JUDGMENT :-

- . Rule. Rule made returnable forthwith.
2. Considering the controversy involved in the petition, the parties are heard for final disposal of the Writ Petition. The facts of the case are very peculiar. The petitioner has filed a Regular Civil Suit No.261 of 2018 in the Court of learned Civil Judge Junior Division, Kopargaon for the following reliefs:

अ. वादीचा दावा मंजूर करण्यात यावा. ब. दावा कलम १ मधील वर्णन केलेले संपुर्ण सोन्याचे दागिने हे वादीचे स्त्रीधन असल्याने ते वादीचे मालकीचे असल्याचे जाहिर ठरवून मिळावे. क. दावा कलम १ मधील वर्णन केलेले संपुर्ण सोन्याचे दागिने हे प्रतिवादी नं.४ यांचेकडे लॉकर नं.४७ मध्ये ठेवलेले असल्याने सदरचे सोने वादीचे स्त्रीधन असल्याने लॉकर नं. ४७ हे प्रतिवादी नं.१ यास त्याचे नवीन चावी करून उघडण्यास परवानगी देवू नये, उघडू देवू नये व प्रतिवादी नं. १ याने सदरचे दागिने लॉकर उघडून ताब्यात घेऊ नये व त्याचे विल्हेवाट लावू नये असा निरंतर ताकीद मनाई हुकूम प्रतिवादी नं.१ व ४ विरुद्ध देववावा. ड. दावा कलम १ मधील वर्णन केलेले संपुर्ण सोन्याचे दागिने हे वादीचे मालकीचे व स्त्रीधन असल्याने प्रतिवादी नं.४ यांनी लॉकरमध्ये ठेवलेले संपुर्ण दागिन्यांचा ताबा हा

वादीकडे हस्तांतरीत करणेत यावा, असा विशिष्ट हुकूम प्रतिवादी नं.४ यांचेविरुद्ध व्हावा.

इ. या दाव्याचा संपुर्ण वकील फी सह खर्च वादीस मिळावा.

ई. न्यायास अनुसरून योग्य ती न्यायदाद वादीचे लाभात देववावी.

ही विनंती. सोबत ऑफिडेव्हीट दिले आहे.

3. It is contended that although the suit is filed against the parents-in-law, the husband and the bank, there is no controversy in between the petitioner/plaintiff-wife and the respondent no.3/defendant-husband. It is submitted that the controversy is in between the daughter-in-law (present petitioner/plaintiff) and the father-in-law (present respondent no.1/defendant no.1).

4. The plaintiff/petitioner contends that she received several gold ornaments and valuables as *Streedhan* which are kept in a safety locker maintained in the name of respondent no.1/father-in-law with respondent no.4/bank. It is submitted that the articles were deposited in the safety locker when the relations between the parties were cordial. Subsequently, the differences cropped between the father-in-law and the daughter-in-law, resulting in a breakdown of trust between the parties which ultimately let to the filing of the suit.

Apprehending that the father-in-law might obtain a duplicate key from the bank and remove or misappropriate the *Streedhan* articles, the plaintiff also sought an injunction against the father-in-law as well as the bank, restraining the bank from issuing a new or duplicate key to defendant no.1.

5. Further the plaintiff also sought an injunction restraining defendant no.1 from opening the locker and disposing of the articles kept therein. It is also a matter of fact that respondent no.1/father-in-law has filed an application to the respondent no.4/bank that no one be allowed to operate the subject matter-safety locker.

6. Obviously, this application is on the pretext that respondent no.1 is the owner/allottee of the said locker and therefore he is the only person entitled to operate the same. Its authorization was evidently extended to the present petitioner when the relations between the parties were cordial. In the light of the differences cropped between the parties, respondent no.1/father-in-law addressed an application to the bank Manager to disallow the petitioner from operating the locker.

7. During the course of hearing of the suit, the plaintiff filed an application under Order XXVI Rule 9 read with Section 75 of the Civil Procedure Code seeking appointment of a Court Commissioner to inspect the subject matter-safety locker bearing no.A-47 and to take photographs of the articles kept therein. It was further prayed that the details of the contents of the locker alongwith the photographs be produced before the Court.

8. The said application was strongly opposed by the defendants. It was contended that the application was nothing but an attempt to collect evidence which is impermissible under the scheme of Order XXVI Rule 9 read with Section 75 of the Civil Procedure Code.

9. After hearing the parties, the application stood rejected. Hence, this Writ Petition is filed by the daughter-in-law.

10. Heard learned Advocates for the respective parties.

11. Mr. A. A. Fulfagar, learned Advocate for the petitioner reiterates the case of the petitioner in support of the application seeking appointment of a Court Commissioner. He expresses an apprehension if bank permits respondent no.1 to open the locker behind the back of the petitioner, the suit

itself would be rendered infructuous. He would further submit that the petitioner merely seeks to have the contents of the locker recorded and nothing else. He therefore prays to allow the Writ Petition.

12. Mr. S. S. Chapalgaonkar, learned Advocate for respondent no.1 would however submit that all contentions of his client are very clear. He would submit that the application addressed by respondent no.1/father-in-law to respondent no.4/bank is under the authority as an owner/allottee of the locker and hence, the said application is absolutely justified. He would submit that respondent no.1 never intended nor intends to open the subject matter-locker taking law in his land nor would make any such request to the bank at any point of time.

13. He would predominantly pointed out that the said locker infact contains the articles and gold ornaments of his wife i.e. defendant no.2 (present respondent no.2) too. He would further submit that at some point of time, it would be incumbent to decide the ownership of petitioner and respondent no.1 corresponding to the articles kept in the subject matter-locker.

14. Mr. Chapalgaonkar would conclude his arguments by contending that the application does not meet any parameter of Section 75 read with Order XXVI Rule 9 of the Civil Procedure Code. That the petitioner herself, both in the plaint and in the present petition has recited all the contents and details of the ornaments which the petitioner purportedly kept in the locker. Therefore, for the same purpose, appointment of a Court Commissioner is not at all warranted. With this, Mr. Chapalgaonkar, learned Advocate prays to dismiss the Writ Petition.

15. Mr. R. A. Tambe, learned Advocate for respondent no.4/bank would submit that there is no procedure for issuing a new or duplicate key to any customer/locker holder in the event of loss of the original key. He would submit that the Reserve Bank of India has prescribed certain procedures to be followed in the event of loss of the locker key. He would further submit that whenever occasion arises, the bank shall open the locker through its authorized employee pursuant to an order of the Court, and that the bank would neither undertake to open the locker behind the back of any party nor do so in the absence of Court order.

16. In view of the above, I find that at this juncture, the application has been rightly rejected by the Trial Court. The issue was about ownership of a party on the articles kept in the locker. At present, there is no clarity as to the contents kept in the said locker. While the petitioner contends that all the ornaments belong to her, respondent no.1 contends that some of the articles belong to his wife. In any event, the plaintiff will have to establish her ownership over the articles and would be entitled to claim them only upon establishing such ownership.

17. In view of this, I find that the Trial Court has not committed any illegality while passing the impugned order. However, taking into consideration the submissions made by learned Advocate for the respective parties as recorded above, it would be justifiable to direct that subject matter-locker no.A-47 shall be operated/opened only pursuant to orders passed by the Trial Court. Whenever occasion arises, the Trial Court may either upon an application made by any of the parties or *suo moto* direct opening of the subject matter-safety locker.

18. Whenever the said locker is directed to be opened, the petitioner, respondent no.1, an official of the bank and two independent witnesses shall remain present. A panchnama shall also be prepared. It is within the domain of the Trial Court as to pass necessary orders as would be required at the relevant time.

19. It is also informed that issues are now framed and evidence is yet to be started. On this count also, the application is abundantly prematured.

20. The parties to the petition candidly agree that they shall not seek any unnecessary adjournment in the matter and shall co-operate to the Trial Court for early disposal.

21. In view of this limited controversy, the Trial Court is requested to conclude the suit proceedings within a period of six months from today. The impugned order does not call for any interference as regards to its legality.

22. With these directions, Writ Petition stands disposed of.

23. Rule in above terms.

(AJIT B. KADETHANKAR, J.)