

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 5314 OF 2015

Sakharam s/o Munjaji Bhosle and others ... Petitioners

VS

Jagannath s/o Satwaji Bhosle, died,
through legal representatives :-
Mankarnikabai w/o Jagganath Bhosle
and others ... Respondents

Mr. Shailesh P. Katneshwarkar, Advocate for petitioner

CORAM : SUNIL P. DESHMUKH, J.

DATE : 9TH JUNE, 2015

ORDER

1. Heard learned counsel for the petitioners.
2. Petitioner claims to be aggrieved by order dated 08-04-2015 passed by learned Civil Judge, Senior Division, Basmatnagar, rejecting Exhibit 153 in Regular Civil Suit No. 69 of 2009, whereunder petitioners who are plaintiffs no. 1 to 7, 9 and 10 in said suit and defendants no. 1/1 to 1/4 had sought disposal of the suit in terms of compromise arrived at among them.
3. Aforesaid suit has been instituted for declaration of suit properties being joint family properties and restraint was sought on defendants from alienating or transferring suit lands.

4. Defendant no. 1 in the suit was biological son of plaintiff no. 1 given in adoption in another family. From the suit properties, it appears, land gut no. 199 admeasuring 78 aar had been transferred by defendant no. 1 in favour of defendant no. 2. A declaration sought in suit also comprised said portion of land as a joint family property. Subsequently, it appears, defendant no. 1 died and his legal heirs were brought on record.

5. Legal heirs of defendant no. 1 and a few of the plaintiffs sought disposal of the suit pursuant to terms of compromise in respect of the properties, including the property which had been sold by defendant no. 1 to defendant no.2. Defendant no. 2 had opposed the compromise and the trial court, after considering the submissions of learned counsel, took into account that all the plaintiffs are not signatories to the compromise. The court further referred to that what was sought under the compromise was partial disposal of the suit which is not possible. The court also referred to that the rights of defendant no. 2 are involved in the matter.

6. The reasons which have weighed with trial court while rejecting request for accepting compromise do not appear to be unwarranted or perverse or untenable.

7. Under the circumstances, I am not inclined to entertain writ petition. Writ petition as such is rejected.

SUNIL P. DESHMUKH, J.

pnd