

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

Anil s/o Chandrakant @ Shivajirao Muley
Age-44 years, Occ- Agriculture & Business,
R/o A Building, Flat No.4, Prabhatnagari
Opp- Shahnoormiyan Darga,
Aurangabad

RESPONDENTS	
1.	Suresh s/o Wamanrao Muley Age-64 years, Occ - Agriculture & Pensioner, R/o Georai, Taluka-Georai, District - Beed At Present, Plot No. 53, N-5, CIDCO, South Sawarkar Nagar, Aurangabad
2.	Smt. Kusumbai w/o Chandrakant @ Shivajirao Muley, Age-65 years, Occ - Household R/o Ram Mandir Galli, Georai, Taluka-Georai, District - Beed
3.	Sau. Jayshree w/o Vivek Deshmukh, Age-38 years, Occ - Household R/o Daya Bhagwant Niwas, Ambad Naka, Near Swayamwar Mangal Karyalaya, Taluka and District - Jalna

Mr. M. G. Deokate, Advocate for the petitioner
Mr. Sharad V. Natu, Advocate for respondent No.1

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 8th JUNE, 2015

ORAL JUDGMENT :

1. Learned advocate for the petitioner submits that

respondents No.2 and 3 being co-defendants, are only formally made parties to the writ petition and as such, their presence is not necessary.

2. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for petitioner and respondent No.1.

3. In the suit filed by respondent No.1 for declaration of ownership and recovery of possession of suit property, present petitioner - defendant No.1 had objected to valuation of the suit that was being shown in the plaint. In the initial round, it appears that trial court had decided the objection of petitioner - defendant No.1 in his favour. Said matter was taken before this court in writ petition bearing No. 680 of 2009 by present respondent No.1, plaintiff in the suit. This court under order dated 30th September, 2009 had set aside the order and directed the trial court to pronounce judgment on all the issues albeit issue No.3 could be treated as preliminary issue and it was directed that the judgment should be pronounced on all the issues. Subsequent to said order, it appears that the petitioner had filed an application Exhibit-96 requesting the trial court to call for valuation of suit property from Sub Registrar, Georai. The court had dismissed the application on 18th March, 2014 and as

such, the petitioner is before this court.

4. Learned advocate for the petitioner submits that the valuation of the suit property is much more than what has been shown in the plaint by the plaintiff. It is about rupees five lac or more and as such, it would be appropriate to call for the requisite valuation certificate from the Sub-Registrar.

5. On the other hand, Mr. Natu, learned advocate appearing for respondent No.1 submits that the application is vague, it does not give any particulars as to of what date valuation that would be relevant shall be called. The application does not spell out the period for which valuation has been sought. The application has been moved in 2013 and further that the court having observed that requisite certificate can be obtained by the petitioner, it would not at all be necessary to accede to the request of the petitioner.

6. On perusal of the impugned order, it appears, the trial court, taking stock of the situation has observed that the valuation of the suit property on the date of the suit would be material and the valuation certificate of 2008 produced by defendant No.1 is already on record and further that the defendant would be able produce required certificate without

assistance of the court, since it is a public document. The court has taken into account the purport and effect of the earlier order passed by this court in writ petition No. 680 of 2009.

6. I do not find any error requiring interference in exercise of discretionary jurisdiction of this court. As such, the writ petition is not being entertained and is dismissed. Rule stands discharged.

7. Learned advocate for respondent No.1 requests for directions to expeditious disposal of the suit. Having regard to the fact that the suit is pending since 2005, it is desirable that the same is taken up for expeditious disposal.

[SUNIL P. DESHMUKH, J.]