

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.860 OF 2015

SATYANARAYAN HARIPRASAD TOSHNIWAL PETITIONER

VERSUS

CHOTIRAM NARAYAN DHAKNE RESPONDENT

Mr.N.T.Tribhuwan, Advocate for the petitioner.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 04/02/2015

PER COURT :

1. The petitioner is the plaintiff in RCS No.189/2004. The petitioner is aggrieved by the impugned order dated 18/09/2014, passed below Exh.71, thereby permitting the respondent / defendant to add paragraph No.2-A and 9-A in the written statement.

2. The petitioner submits that prior to filing Exh.71, the respondent had moved an application on 31/03/2006 praying for amendment in the written statement. The petitioner filed his say on 17/08/2006. The respondent did not press the said application on 29/01/2010.

3. The petitioner, therefore, contends that the respondent, upon filing a redemption suit bearing RCS No.121/2006 on 19/04/2006, has moved an application on 18/02/2010 below Exh.71, which is just 20 days after withdrawing the first application on 29/01/2010. Impugned order is passed after 4½ years on 18/09/2014. The

evidence of the plaintiff is already closed. It is, therefore, prayed that the petition be allowed and/or the pending suit may be expedited since it is almost 11 years old.

4. I have considered the submissions of the petitioner in the light of the impugned order. The proposed amendment was a sort of an explanation put forth by the respondent regarding the transaction in relation to the suit property. The Trial Court has allowed the application by imposing costs. On considering the proposed amendment, I do not find that it is likely to alter the cause of action.

5. Ends of justice would be met by expediting the said suit in the light of the amendment permitted by the Trial Court.

6. As such, this petition is disposed of with the direction that the Trial Court shall decide RCS No.189/2004 as expeditiously as possible and preferably on or before 31/10/2015. The Trial Court would be justified in denying adjournments to the litigating sides, if the same are found to be on unreasonable grounds. Pursuant to the amendment as per the impugned order, in the event the petitioner desires to lead further evidence, he shall be at liberty to move an application before the Trial Court and the same shall be considered after hearing the litigating sides on its merits.

(RAVINDRA V. GHUGE, J.)