

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3646 OF 2015

Datta Bhambu Dhebe and ors. : Petitioners
versus
Sudarshankumar Mansukhlal Kandar & ors. : Respondents.

**ALONG WITH
WRIT PETITION NO.3647 OF 2015**

Bhagu Janu Dhebe and ors. : Petitioners
versus
Sudarshankumar Mansukhlal Kandar
(Deceased) & ors. : Respondents.

Mr. S S. Redekar for the Petitioners in both the WPs.
Mr. V S Tadke i/by Mr. D D Shinde for the Respondent Nos.5, 6, 7, 8 and
10 in WP No.3647 of 2015.

CORAM : R. M. SAVANT, J.
DATE : 29th October 2015

P.C.

1 At the outset the learned counsel for the Respondent Nos.5, 6, 7, 8 and 10 undertakes to file vakalatnama for the said Respondents in Writ Petition No.3646 of 2015.

2 The writ jurisdiction of this Court is invoked against the order dated 06/02/2014 passed by the learned Joint Civil Judge, Senior Division, Pune by which order the application for appointing an administrator for the Defendant No.1 in the suits in question came to be rejected.

3 The said rejection is on the ground that the Plaintiffs are claiming to be in possession of the suit properties so question of appointing an administrator does not arise.

4 It is the contention of the learned counsel for the Petitioners that pursuant to the directions which were issued by the Trial Court, the Plaintiffs had published a notice in the local news papers in respect of both the suits. However, thereafter the Trial Court without adhering to the mandate of Order XXII Rule 4-A of the Code of Civil Procedure has rejected the applications on a ground which is not germane for consideration of the applications filed under Order XXII Rule 4-A of the Code.

5 Upon this, the learned counsel Shri V.S. Tadke h/f Mr. D D Shinde, for Respondent Nos.5, 6, 7, 8, and 10 in Writ Petition No.3647 of 2015 and Writ Petition No.3646 of 2015 which Respondents, according to him, are similarly situated as the other Respondents in both the Petitions, makes a statement that he has no objection to the impugned order being set aside and the matter being relegated back to the Trial Court for de-novo consideration of the said applications.

6 Hence the impugned orders both dated 06/02/2014 in the above

Petitions are quashed and set aside and the matter is relegated back to the Trial Court for a de-novo consideration of the said applications . The Trial Court would be well advised to bear in mind the mandate of Order XXII Rule 4-A of the Code whilst adjudicating upon the said applications. With the aforesaid directions, both the above Writ Petitions are disposed of.

[R.M.SAVANT, J]