

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3360 OF 2015

Vishnu M. Jadhav (deceased
through Lrs.)

.. Petitioners

vs.

Dadu G. Patil (deceased
through Lrs.)

.. Respondents

Mr. U.R. Mankpure for the Petitioner.

Mr. N. J. Patil i/b Amey N. Patil for Respondent No.1a.

CORAM : M. S. SONAK, J.

DATE : 28 April, 2015.

P.C. :-

1] The petitioners had filed an affidavit, which indicates that the service is complete on respondent Nos.1a and 1b. Respondent No.1d is stated to have been refused service, as such the said respondent is deemed to have been served in the matter. In so far as respondent Nos.1c and 1e are concerned, an attempt has been made to serve them, however, service has not been possible on account of incomplete address.

2] There is no dispute that respondent Nos.1c and 1e are daughters of respondent No.1a, who has been served in the matter and is represented through the counsel. In view of the order, which is proposed to be made, service upon respondent Nos.1c and 1e is, therefore, exempted.

3] Rule. With the consent of and at the request of learned counsel for respondent No.1, Rule is made returnable forthwith.

4] This petition challenges the order dated 11 March 2015, by which the petitioners, who are the appellants in Regular Civil Appeal No. 309 of 2011 has been declined stay on the execution of judgment and decree dated 5 July 2011, which directs redemption and handing over possession of the suit property.

5] There is no dispute that Regular Civil Appeal No. 309 of 2011 is a Regular Appeal, in which, the Appeal Court is entitled to revisit the issues of law as well as fact. Pending such appeal, if the decree impugned is permitted to be executed, serious prejudice is bound to result to the petitioners. The learned counsel for respondent No.1 is right in his submission that in case there is any undue delay in disposal of the Regular Civil Appeal No. 309 of 2011, then the respondents will be denied the fruits of their decree.

6] In order to balance the situation, the learned Ad-hoc District Judge-3 Sangli is directed to dispose of the Regular Civil Appeal No. 309 of 2011, as expeditiously as possible and in any case within a period of four months from today. In the meanwhile, during the pendency of the appeal, there shall be a stay to the execution of the decree impugned in the appeal.

7] All parties to cooperate with the learned District Judge, in the matter of expeditious disposal of the appeal, in particular, the petitioners to proceed with the hearing of the appeal without seeking any unnecessary adjournment.

8] Rule is, in the peculiar facts and circumstances of the present case, made absolute to the aforesaid extent.

9] Accordingly, petition is disposed of. There shall be no order as to costs.

10] All concerned to act upon an authenticated coy of this order.

(M. S. SONAK, J.)

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