

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

914 WRIT PETITION NO. 6903 OF 2016

PRABHAKAR SAHEBRAO NAGARE
VERSUS
ANKUSH JAYWANTRAO NAGARE AND OTHERS

Shri. Pradeep Deshmukh, Advocate, holding for Shri. Y.P. Deshmukh, Advocate, for petitioner.

CORAM: T.V. NALAWADE, J.

DATE : 19th AUGUST 2016

ORDER:

1) The proceeding is filed to challenge the order made on Exhibits 104 and 107 filed in Regular Civil Suit No.251/2006 which is pending in the Court of the Civil Judge Junior Division, Georai. Present petitioner is defendant in the said suit and the suit is filed for relief of partition. Applications were moved for staying the suit on the ground that one proceeding is pending in Supreme Court and the nature of the suit property is in dispute in the said proceeding.

2) The submissions made and the reasoning given by the Court below shows that the Managing Committee of one Dargah is contending that the suit property is service inam land and it was given for rendering service to the Dargah. To decide the said dispute one proceeding is pending. Present suit is for relief of partition and the parties are relatives inter se and they want to partition the property on the ground that the rights of present parties in the property are inheritable and they are partible. Considering the nature of the present suit it can be said that the dispute between the parties in RCS No.251/2006 has nothing to do with the dispute which is there in the matter pending in the Supreme Court. Decision of this suit will not be binding on the Managing Committee of the Dargah and if the Managing Committee succeeds in the said matter, the Managing Committee can go against all the present parties, both the plaintiff and the defendants of the present matter. Thus due to the dispute which is pending in Supreme Court, the present suit cannot be stayed. There are some observations made by the civil Court regarding the nature of the suit property. But those observations are unwarranted and the

civil Court is expected to decide the suit on the basis of pleadings from the present suit. In view of aforesaid observations this Court holds that there there are no merits in the present writ petition. The writ petition stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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