

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

24 WRIT PETITION NO. 10931 OF 2015

NETAJI BHAGWANRAO TAUR
VERSUS
BAKULABAI BHAGWANRAO TAUR AND OTHERS

Shri. Milind Madhu Joshi, Advocate, for petitioner.

Shri. Pawan S. Tele, Advocate, holding for Shri. V.G. Mete,
Advocate, for respondent Nos.1 to 8.

CORAM: T.V. NALAWADE, J.

DATE : 16th AUGUST 2016

ORDER:

1) The petition is filed to challenge the order made by the learned Civil Judge, Junior Division, Ghansavangi on Exhibit 150 in Regular Civil Suit No.16/2009. This application was filed for making more amendment in respect of added defendants in the plaint and the application is rejected by the Court. Herd learned counsel for the petitioner, original plaintiff.

2) The suit is filed for relief of declaration that plaintiff is the adopted son of defendant No.1 and her

deceased husband. No other relief was claimed. In the plaint there was no contention that the plaintiff is entitled to enjoy the property along with the defendant No.1 and only the aforesaid declaration was claimed.

3) It appears that the suit was dismissed and then application was made for restoration of the suit. The suit was restored. The plaintiff realized that when the suit was not pending, some transfer was made by defendant No.2 in favour of newly added defendant and so he filed application for adding those purchasers in the suit. Said application was allowed by the trial Court and they are added as party defendants.

4) It is now the case of the plaintiff that in the body of the plaint, contentions with regard to sale deed made in favour of the purchasers are not mentioned and they need to be mentioned in the suit and relief of injunction against the purchasers needs to be claimed.

5) The learned Judge of the trial Court has observed in para 10 of the reasoning that if the plaintiff is able to prove the case of adoption then he will succeed in

the entire matter as the transfer in respect of suit property in favour of added defendants will be null and void. The matter was already kept for argument of both the sides by the trial court.

6) Learned counsel for the petitioner has placed reliance on following reported cases and he submitted that the trial Court ought not to have made discussion on merits of the case.

(1) **2012(1) Mh.L.J. 971 (Dattaram vs. Abhimanyu).**

(2) **2012 (3) Mh.L.J. 940 (Dela vs. Uddhal).**

(3) **2013(2) Mh.L.J. 760 (Shakuntala vs. Ramdas).**

(4) **2013(5) Mh.L.J. 822 (Teodolinda vs. Laurie).**

(5) **2013(6) Mh.L.J. 38 (Harishkumar vs. Madhavi).**

(6) **2013(6) Mh.L.J. 193 (Kamlesh vs. Kalyan).**

(7) **2013(6) Mh.L.J. 440 (Prabhakar vs. State of Goa).**

(8) **2011 (6) Mh.L.J. 55 (N.C. Banerjee And Co. vs. Manoj).**

(9) **2012(1) Mh.L.J. 316 (Narayan vs. Sumanbai).**

(10) **2012(1) Mh.L.J. 856 (Parmeshwar vs. Mahadeo).**

(11) **2014(2) Mh.L.J. 105 (Abhay vs. Helen).**

(12) **2014(2) Mh.L.J. 691 (T.V.P.Bhaskar Rao vs. S.H. & P. Pvt. Ltd.)**

(13) **2015(1) Mh.L.J. 636 (Shantabai vs. Vasant).**

7) It can said that the trial Court has discussed the merits for deciding the amendment application and such discussion can be said for the purpose of consideration of the contents of the application filed for amendment. In view of these circumstances, this Court holds that extraordinary jurisdiction need not be invoked in the present matter. There are no merits in the matter. The petition stands dismissed.

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

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