

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

19 WRIT PETITION NO. 8573 OF 2015

SANDHYA RAVINDRA @ RAVIKANT DESHMUKH
VERSUS
VIJAYA BALASAHEB DESHMUKH

Shri. Shrikant Kulkarni, Advocate, for petitioner.

CORAM: T.V. NALAWADE, J.

DATE : 16th AUGUST 2016

ORDER:

1) The petition is filed to challenge the order made by the Civil Judge, Junior Division, Jintur. Present petitioner, original defendant has prayed for recasting some issues. It is the case of the petitioner that some issues which ought to have been framed are not framed and so present proceeding is filed. He submits that following issues ought to have been framed.

"(1) Does plaintiff prove that, disputed property is ancestral property of parties as well as joint family property as contended in para Nos.5 and 14 of the plaint ?

(2) Whether there is a partition of ancestral and joint family property of late Narayanrao ?

(3) Whether the document dated 25-2-1997 is admissible in eye of law ? If yes, whether the said document dated 25-2-1997 can say to be family arrangement by all co-sharers or co-owners ?"

2) The suit was filed for possession under section 6 of the Specific Relief Act. The wording of section 6 of the Specific Relief Act shows that plaintiff is required to prove that within six months prior to the date of the suit the plaintiff was in possession and the plaintiff was disposed without following due procedure established by law. There is no other requirement for getting relief under that provision and the defendant can succeed when plaintiff fails to prove the requirement of section 6 of the Specific Relief Act. Though other relief of injunction was subsequently added it can be said that that relief was not within scope of section 6 of the Act and after getting possession further relief could have been claimed in other appropriate proceeding. The aforesaid issues were unwarranted. The trial Court has framed issue on the basis of aforesaid provision of section 6 of the Specific Relief Act and so there is no merit in the present proceeding. The petition stands dismissed.

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

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