

Sequeira

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

***WRIT PETITION NO. 11248 OF 2011
Along with
CIVIL APPLICATION NO. 1669 OF 2016***

Krushna Gopinath Kukkar .. Petitioner / Applicant
Vs.
Kantabai Baburao Billade
- (Since deceased through her legal heirs)
1-A) Rajendra Baburao Billade Kukkar
- (Since deceased through its legal heirs)
1-A-i) Jyiti Rajendra Billad & ors. .. Respondents.

Mr.Swapnil Mhatre i/b Mr.Shriram Kulkarni, for the Applicant.
Mr.Pratik Rahade i/b P.N.Joshi, for Respondent Nos.1-A-i, 1-A-ii, 1-A-iv & 1-B.

***CORAM : N.M.Jamdar, J.
Friday, 7 October 2016.***

P.C. :

In this Writ Petition the Petitioner has challenged the order dated 15 September 2011 passed by the learned Civil Judge Junior Division Yeola, wherein the learned Civil Judge has directed certain documents to be exhibited. In this Petition notice has been issued, on 26 March 2012 staying the proceedings in the Civil suit filed by the Petitioner. Thereafter the petition has remained pending and various Civil applications have been filed to bring heirs of Respondents who have expired in the meanwhile.

2. Considering the jurisdiction that is invoked that is under Article 227 of Constitution of India, I have examined merits of the Writ petition, as since the year 2012 the suit has remained stayed. By the impugned order all that the learned Civil Judge has granted is to exhibit certain documents on record. It is settled that merely because the documents are exhibited they do not stand proved and at the stage of exhibiting documents the evidentiary value need not be looked into. Furthermore, there is no revision or appeal provided under the Code for such interlocutory orders. So that the trial of the suit is expedited and it is not unduly prolonged due to the pendency of the Writ petition, I am inclined to dispose of the Writ petition by keeping rights and contentions of all parties open.

3. It is thus directed that the impugned order dated 15 September 2011 shall be construed as only permitting exhibiting of the documents. It will be open to the parties to advance all such contentions as may be available in law regarding the admissibility and evidentiary value of these documents. For this purpose, if any observation is made by the learned Judge in the impugned order that would be considered as prima facie. Keeping all contentions of the parties open regarding the evidentiary value and admissibility of the documents which are directed to be exhibited, the Writ Petition and the Civil application are disposed of.

4. Considering the facts that the trial has been stayed by the interim order passed which now stands vacated, the learned Civil Judge, Yeola will make an endeavour to dispose of the suit as early as possible. All contentions of the parties on merits of the suit are kept open.

(N.M.Jamdar, J.)