

Sequeira

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

WRIT PETITION NO. 10572 OF 2016

Shri Ananda Babu Jadhav
Since deceased by his Legal
Heirs and Representatives,

1 Smt.Shakuntala Ananda Jadhav & ors.

.. Petitioners

Vs

Shri Dilip Ananda Mali.

.. Respondent

Mr.M.L.Patil, for Petitioners.

***CORAM : N.M.Jamdar, J.
Tuesday, 18 October 2016.***

P.C. :

By order dated 28 September 2015, notice was issued for final disposal and ad-interim relief was granted. The registry has endorsed that the Respondent is served. The learned counsel for Petitioners has filed affidavit of service.

2. By the impugned order, the learned Principal District Judge Sangli has rejected the application filed by Petitioners for clubbing two suits i.e. R.C.S No.79 of 2012 (Special Civil Suit No.132 of 2007) and R.C.S No.85 of 2008. In the impugned order learned Principal District Judge has virtually given no reasons. It is stated only that R.C.S No.85 of 2008 is old and no cogent explanation is

given for delay. The learned counsel for Petitioners submitted that both the suits have not proceeded and the Respondent had no objection for clubbing these two suits together and it is one of the reason that the Respondent is not appearing in this petition.

3. If both the parties were agreeable for clubbing the suits together and if both the suits had not substantially proceeded then the learned Principal District Judge ought not to have summarily dismissed the application, by a non-speaking order. The application filed under section 24 of the Code of Civil Procedure is a detailed application wherein various reasons are given for transfer, which have not been considered at all.

4. In the circumstances, the impugned order will have to be quashed and set aside and it is accordingly set aside. The Miscellaneous Civil Application No.106 of 2015 stands restored to file. The learned Principal District Judge will consider the application uninfluenced by the earlier order and dispose of the same by passing an appropriate order. The learned Principal District Judge will also take note of the fact that the Respondent has not appeared to contest this Petition. Writ Petition is disposed of as above.

(N.M.Jamdar, J.)