

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 12277 OF 2016

Pradeep Bhalchandra Keer.

..Petitioner

Versus

Smt. Smita Shashikant Padwal & anr.

..Respondents.

....

Mr. Chandrakant N. Chavan, Advocate for the Petitioner.

Mr. R.N. Kachre i/b. Mr. A.M. Kandekar i/b. M/s. Tamhane & Co., advocate for respondents.

Petitioner is present.

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CORAM : R. G. KETKAR, J.

DATE : OCTOBER 24, 2016

P.C.

Not on board. At the request of Mr. Chandrakant Chavan, taken up in the production board. Mr. Chavan seeks leave to delete respondent No. 2 as no relief is claimed against him. Leave as prayed for is granted. Amendment shall be carried out forthwith.

2 Heard Mr. Chandrakant Chavan, learned Counsel for the petitioner and Mr. Kachre, learned Counsel for the

respondent No. 1 at length. Rule. Mr. Kachre waives service for respondent No. 1. At the request and by consent of the parties, rule is made returnable forthwith and the petition is taken up for final hearing.

3 The petitioner has challenged the Judgment and Order dated 10th August, 2016 passed by the Appellate Bench of the Small Causes Court at Mumbai in Revision Application No. 256/2015. By that order the Appellate Court allowed the revision application preferred by the respondent No. 1 (hereinafter referred as applicant) and quashed and set aside the Judgment and Order dated 16/6/2015 passed by the learned Trial Judge below Exh. 16 in RAE Suit No. 601/997 of 2011. The Appellate Court allowed the application Exhibit 16 made by the applicant impleading her as defendant in the suit.

4 Mr. Chavan states that the Petitioner is present in the court. He has tendered photo copy of the driving licence of the petitioner, which is taken on record and marked as article "X" for identification.

5 Upon taking instructions from the Petitioner, Mr.

Chavan states that Suit No. 807 of 1947 between the plaintiff and respondent No. 1 for partition was decreed in terms of consent terms dated 16/10/2004. He states that the partition of the suit property by metes and bounds is not effected till date as per the consent decree. He further states that till such time, the partition is effected by metes and bounds and the parties are put in either symbolic or actual possession of the suit property, the plaintiff shall not create third party interest in the buildings known as Bhagirathi Sadan and Anand Bhuvan. The statement made by Mr. Chavan is accepted in the form of undertaking.

6 In view thereof, Mr. Kachre, learned Counsel for the respondent on instructions seeks permission to withdraw the application below Exh. 16.

7 On motion made by Mr. Kachre, the Application Exh. 16 is allowed to be withdrawn. In view thereof, the impugned order dated 10/8/2016 passed by the Appellate Bench of Small Causes Court, Mumbai stands dissolved. Rule is made absolute in the above terms with no order as to cost.

(R. G. KETKAR, J.)

