

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Civil Application [CAW] No. 2362 of 2016
IN
Writ Petition No. 5747 of 2013
[Yuva Jagreeti Sahakari Pat Sanstha, Umrer, & another Vs.
Ambadas Gopalrao Bakade & others]

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Mr. V.D. Raut, Adv., for the petitioners.
 Mr. S.G. Nigot, Adv., for respondent no.1.
 Mr. D.G. Paunikar, Adv., for respondent nos. 2 and 3.

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CORAM : P.B. VARALE, J.

DATE : 05th December, 2016

By the present application, the petitioners pray for permission to sell out/dispose of a passenger luxury tourist bus bearing Registration No. MH-31 M-6102.

It is submitted that the respondent no.1 filed Civil Suit No. 143 of 2010 for a declaration, mandatory injunction and permanent injunction in respect of the said bus. It was the submission of respondent no.1 before the court below that he only had the legal right to use and possess the bus and earn income out of the said vehicle bus. It is submitted in the application that it was alleged by the respondent no.1 that the respondent nos.

2 and 3 illegally seized the bus. It is submitted in the application that since the date of seizure, namely 14th October, 2000, the said vehicle bus is lying in front of the office of the petitioners. It is further submitted that the said vehicle bus is standing on the plot of one Shri Satish Katare and rent was being paid to the land owner for parking the bus thereon. It is submitted in the application that during the pendency of proceedings before the court below as well as before this Court, the plot holder has sold out the plot to one Shri Hattimare and the new purchaser is not ready to keep the vehicle bus on the said plot. It is also submitted that as the vehicle bus is in a non-plying condition, parked on the place for a longer period, the value of the bus is depreciating day by day. It is submitted that the controversy between the parties is in respect of recovery of the amount to the tune of Rs. 5,25,000/- and interest thereon. It is further submitted that it would be in the interest of the parties to sell out or dispose of the said bus instead of keeping the same in a stationary position which is causing decay and rust.

The respondent no.1 in the reply refers to the controversy between the parties in respect of the said amount by giving certain details. It is submitted in the reply that though the petitioner-Society had no business to seize the bus from the respondent no.1, the petitioners in collusion with respondent nos. 2 and 3 grabbed the entire suit bus. It is further submitted that

it would be proper and desirable to dispose of the suit bus and sale proceeds be directed to be deposited in this Court.

Considering the above referred facts, the application is allowed in terms of (a), subject to the applicants-petitioners depositing the sale proceeds in this Court within two weeks as soon as the vehicle bus is sold out or disposed by the applicants-petitioners. The vehicle bus be put to auction for sale so as to explore the possibility of getting a reasonable value for the vehicle.

Judge

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