

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

CIVIL REVISION PETITION No.576 OF 2016

ORDER:

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Heard learned counsel for the petitioner.

The petitioner, being aggrieved by the impugned order of the Court below declining to recast the issues as sought for by him, filed the present Civil Revision Petition.

It is evident that the petitioner is the 6th defendant in the suit, which is filed for permanent injunction. However, the issues now suggested by the petitioner to be recasted, as rightly observed by the Court below, are beyond the scope of the suit, and as they relate to title, they cannot be decided in a suit of this nature and the Court below may incidentally go into those questions

if such a situation arises. Furthermore, under Order XIV Rule

1 C.P.C., it is entirely the discretion of the Court below to recall or reframe or frame appropriate issue at the time of disposal of the suit.

Hence, as a matter of right, the 6th defendant cannot seek recasting of the issue, which enlarges the scope of the suit.

I therefore do not see any error in the impugned order warranting interference of this Court under Article 227 of the Constitution of India.

The Civil Revision Petition is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

VILAS V. AFZULPURKAR, J

08.02.2016
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