

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8351 OF 2017

VILAS GANPATRAO PUJARI
VERSUS
MADHUKAR BABURAO SALUNKE AND OTHERS

...
Advocate for Petitioner : Shri Kulkarni Suresh M.
Advocate for Respondent 1 : Shri Choudhari Sushant B.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 11, 2017
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PER COURT :-

1. The petitioner is aggrieved by the inter-locutory orders dated 3.12.2013 and 9.3.2017, which are challenged in this petition, filed on 17.4.2017.

2. I have considered the strenuous submissions of Shri Kulkarni, learned Advocate for the petitioner. I have also considered the six grounds formulated by him in the memo of the petition.

3. I find that the grievance before the appeal Court put forth by the petitioner in application Exhibit 21 was that the said Appeal be stayed till Second Appeal No.441 of 2008 in RCS No.189 of 1986 is decided. Application Exhibit 46 was also filed for the said purpose.

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4. Having considered the strenuous submissions of the learned Advocates, I find that after application Exhibit 21 was rejected by the appeal Court, by waiting for about 3 years, Exhibit 46 was filed on 6.10.2016 in the same cause. The second application, therefore, could not have been filed.

5. Even if it is considered that Exhibit 46 was held to be untenable, since Exhibit 21 was earlier rejected, the petitioner cannot be permitted to raise a challenge to the order dated 3.12.2013, below Exhibit 21, after a passage of more than three and half years. So also, after RCA No.103 of 2012 is decided, neither of the litigating parties would be precluded from approaching this Court by taking up a comprehensive challenge. Since the appeal filed in 2012 is still pending, the same could be decided within a time frame and for which purpose, this petition need not be kept pending.

6. Considering the above, this petition is disposed off and the learned appeal Court is directed to decide RCA No.103 of 2012 as expeditiously as possible and preferably within a period of six months from today.

(RAVINDRA V. GHUGE, J.)

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