

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10018 OF 2015

Dilip Gopal Patil
Age - 52 years, Occ - Nil,
R/o Padalda, Taluka - Shahada
District - Nandurbar

PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Irrigation Department,
Mantralaya, Mumbai
2. The Collector, Nandurbar
District - Nandurbar
3. The Additional Collector,
Sardar Sarovar Project,
Nandurbar, District - Nandurbar
4. Sau. Ujjvala Dilip Patil,
Age - 46 years, Occ - Agriculture
5. Deepak Dilip Patil,
Age - 22 years, Occ - Student
6. Karuna Dilip Patil,
Age - 19 years, Occ - Student
7. Manisha Dilip Patil,
Age - 17 years, Occ - Student

RESPONDENTS

All R/o Padalda, Taluka - Shahada
Respondent No.7 is minor and her
parents is respondent No.4

.....

Mr. Milind Patil h/f Mr. D. M. Pingale, Advocate for the petitioner
Mr. S. P. Tiwari, AGP for respondent - State

.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 27th JUNE, 2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the appearing parties.

2. Application Exhibit - 47 had been moved by the petitioner for setting aside *ex parte* order passed in Special Civil Suit No. 48 of 2012, which is filed by wife and children of the petitioner for declaration that sale deed executed by present petitioner to be null and illegal and not binding on the plaintiffs and to quash and set aside the same and injunction against defendants No. 1 to 3 from interfering with the suit land. Order, suit to proceed *ex parte* against defendant No. 4 - petitioner had been passed on 19th August, 2011. Issues were framed on 21st April, 2012 and the plaintiffs had led evidence. Thereafter it is on 15th September, 2014, the petitioner had moved application Exhibit-47 for setting aside the *ex parte* order.

3. It has been contended by the petitioner that due to ill-health, he could not appreciate implications of service of summons on him. He has been dependent upon plaintiff No.1.

Trial court has gauged that plaintiff No.1 and defendant No.1 are jointly residing.

4. Although learned advocate for the petitioner has contended that due to mental instability the matter went *ex parte*, and its implications could not be realized till 2014. It is being claimed that the petitioner is now in a position to appreciate implications. Yet, there has been no material placed absolutely to support the contentions. Trial court has given reasons, which can be seldom said to be not adhering to the factual position.

5. The application appears to have been moved to protract litigation as observed by the trial court. In the circumstances, there does not appear to be any case made out for intervention in the order impugned.

6. As such, writ petition stands dismissed. Rule stands discharged.

[SUNIL P. DESHMUKH, J.]