

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10804 OF 2017

MIKABAI PREMSING RATHOD AND OTHERS
VERSUS
DHABABAI DHONDIRAM CHAVAN AND OTHERS

...
Advocate for the Petitioners : Shri D.R.Markad h/f Shri Kakade N.K..
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 09th October, 2017.

Per Court:

1 The Petitioners are aggrieved by the order dated 24.04.2017 passed by the Trial Court, by which application Exhibit-117 seeking interim maintenance under Section 151 of the Code of Civil Procedure in a suit pending partition and separate possession, has been rejected.

2 The learned Advocate for the Petitioners has strenuously criticized the impugned order. The contention is that some of the Defendants are deliberately delaying the matter and hence, the Petitioners prayed for interim maintenance. The first witness of the Plaintiffs has led his examination-in-chief on 21.11.2012. Defendant Nos.1 and 3 have completed their cross-examination on 15.11.2013. Defendant No.4 initially suffered "no cross" order. Thereafter, the said order was set aside on costs and still the matter is getting adjourned.

3 I have considered the submissions of the learned Advocates for the Petitioners and have gone through the grounds formulated by him in the memo of the petition.

4 Section 151 of the Code of Civil Procedure is with regard to the discretion vested in the court to exercise its inherent powers. When no other provision of law can be pressed into service or when the circumstances are such that save and except Section 151, there is no other provision under which any prayer of the applicant could be entertained, the Court may, in its discretion, exercise the powers under Section 151. It is trite that this provision is invoked in rare circumstances. I, therefore, do not find that the Trial Court has committed any error in rejecting application Exhibit-117 by the impugned order.

5 However, considering the grievance of the Petitioners that the first witness of the Plaintiffs has not been cross-examined by Defendant No.4 for about four years, I deem it appropriate to direct the Trial Court to ensure that the cross-examination of the witness of the Plaintiffs is expeditiously concluded and adjournments sought on unreasonable or trivial grounds may be refused.

6 This Writ Petition is, accordingly, disposed of.