

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

WRIT PETITION NO. 1043 OF 2017

Karbhari s/o Bhagaji Samse

.. PETITIONER

VERSUS

Mrs. Bababai w/o Raghunath Ghodake
& another

.. RESPONDENTS

Mr. K.R. Doke, advocate for petitioner.

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CORAM : S. B. SHUKRE, J.

DATE : 3rd FEBRUARY, 2017.

PER COURT :

1. Heard learned counsel for petitioner.
2. By this petition, the petitioner is questioning the legality and correctness of the order dated 13th July, 2016. However, I find from this order that the learned Civil Judge has taken a view that the suit has been filed on the basis that compromise decree was obtained fraudulently and, therefore, it would not be just and proper to oust the plaintiff at the preliminary stage itself and that, it would be in the interest of justice that plaintiff is given an opportunity to lead evidence. This view taken by the learned Civil Judge is based upon the decision of the Honourable Apex Court in the case of Bhoop Singh Vs. Ram Singh Major **(1995) 5 SCC 709**.
3. In the circumstances, I am of the view that no illegality or

arbitrariness is evident from the impugned order. The petition is liable to be dismissed summarily and it is dismissed accordingly with costs.

(S. B. SHUKRE)
JUDGE

dyb