

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11987 OF 2016

DIGAMBAR JAYWANTRAO DESHMUKH
VERSUS
NARMADABAI FAKIRRAO GADHAVE AND OTHERS

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Advocate for Petitioner : Shri Shelke Shivaji T.
Advocate for Respondent 1 : Shri Ubale M.B.
h/f Shri Pradhan L.K.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: June 22, 2017

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PER COURT :-

1. Issue is as regards two suits i.e. Regular Civil Suit No.23 of 1996 for specific performance and Special Civil Suit No.47 of 2014 for injunction.

2. This Court, while issuing notice on 20.12.2016 has observed as under:-

“1. Notice to respondents made returnable on 19.1.2017.

2. Heard the learned counsel for petitioner on interim relief. It appears that two suits are filed by respondent, plaintiff Smt. Narmadabai. The first suit was filed in the year 1996 for specific performance of contract of sale and the new suit came to be filed in the year 2014 for relief of injunction. In view of these circumstances, application was moved by the present petitioner under section 10 of C.P.C. for stay of the

subsequently instituted suit. In suit filed for relief of injunction also the plaintiff in such a case is required to show that he has been ready and willing to perform his part of contract, otherwise plaintiff cannot get relief of injunction.

3. In view of these circumstances, stay is granted to the proceeding of Special Civil Suit No. 47/2014 till the next date.”

3. This Court by order dated 13.6.2017, has allowed Writ Petition No.3774 of 2015 between the same parties and RCS No.23 of 1996 is directed to be decided. Since the said suit is of 1996 and is 21 years' old, it would be in the interest of justice to direct the trial Court to decide the said suit as expeditiously as possible and before 29.12.2017.

4. Considering the above and the observations of this Court in paragraph No.2 of the order dated 20.12.2016, the trial Court dealing with RCS No.23 of 1996 shall decide the said suit on/or before 29.12.2017. The litigating sides shall extend their cooperation to the Court and shall refrain from seeking adjournments on unreasonable and trivial grounds.

5. Special CS No.47 of 2014 is at the stage of advancing final arguments. As such, the order passed by this Court on 20.12.2016, would continue to operate till RCS No.23 of 1996 is decided. Once the

judgment is delivered in the said suit, the litigating sides would proceed with Special CS No.47 of 2014.

6. The litigating sides are agreeable to appear before the trial Court in RCS No.23 of 1996 on 10.7.2017.

7. This petition is, therefore, disposed off with the above directions.

(RAVINDRA V. GHUGE, J.)

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