

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1267 OF 2017
IN
WRIT PETITION NO. 7916 OF 2003**

UNION OF INDIA ... Applicant.

In the matter between :

Shri Vinayak Yadneshwar Sathe ... Petitioner.

V/s.

Union of India & Anr. ... Respondents.

AND

Laxman Yadneshwar Sathe ... Opponent.

Mr. S. R. Rajguru, Advocate a/w. Pratik Jhaveri i/by Ashish Mehta, Advocate for the Applicant- Union of India.

Mr. Sanjiv Sawant, Advocate a/w. Balvendra Singh, Advocate for the Opponent- Laxman Yadneshwar Sathe.

**CORAM : NARESH H. PATIL AND
SMT. BHARATI H. DANGRE, JJ.**

DATE : 21st JUNE, 2017

P.C. :

1 By an order dated 6th May, 2008 passed by the Division Bench of this Court, Writ Petition No. 7916 of 2003 was disposed of in the following terms, which reads as under :

(i) In case, within a period of 12 weeks from today, the Petitioner files a civil suit for a decree of declaration that he is the owner of the suit land and also for a decree of possession of the land, the suit shall be tried by the Civil Court on its own merit on the basis of material produced before the Civil Court.

(ii) In case, such a civil suit is filed, the interim order made in this petition in relation to the possession of the land which is presently in operation, shall continue to operate on the same terms and conditions. The respondents however shall be at liberty to apply for the vacation or modification of the order in case there is any change in the existing situation.”

2 The learned counsel appearing for the opponent – Laxman Yadneshwar Sathe, submits that consequent to the said order of the division bench dated 06.05.2008, a Special Civil Suit No. 132 of 2008 was filed by the original petitioner before the Civil Court at Alibag. The said special civil suit came to be dismissed on 30.07.2015. An Appeal No. 95 of 2015 came to be preferred by the opponent - Laxman Y. Sathe, against the dismissal of the special civil suit. The Appeal No. 95 of 2015 was listed for argument on several dates.

3 It is the contention of the learned counsel for the present Opponent that he had advanced arguments on behalf of the appellant – Laxman Sathe and also submitted his written arguments. The said appeal is posted for argument of the other side i.e. Union of India before the District Court, Alibag. At this stage, the present civil application came to be filed before this court.

4 The counsel appearing for the Union of India submits that the original petitioner - Vinayak Yedneshwar Sathe assigned his right in favour of the Opponent - Laxman Yadneshwar Sathe. Learned counsel for the Union of India further submits that in view of the order of the Division Bench in the petition, the Applicant shall be free to take necessary steps for taking back possession of the land from the original petitioner and/or opponent -Laxman Yadneshwar Sathe.

5 Without expressing any opinion on the contentions raised by the learned counsel for the Union of India and in view of the order passed by this court in the writ petition and the subsequent developments in the matter, the Union of India is free to take appropriate steps in accordance with the law.

6 All issues on merits are kept open. We do not express any opinion pertaining to the rights of the contesting

parties including the present opponent - Laxman Yadneshwar
Sathe

7 Civil application is disposed of.

(SMT. BHARATI H. DANGRE,J.)

(NARESH H. PATIL,J.)

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