

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

WRIT PETITION NO. 3952 OF 2016

ASHOK MOTILAL NAHAR  
VERSUS  
POPATLAL MOTILAL NAHAR AND OTHERS

...

Advocate for the Petitioner : Shri Mote Krushna D.  
Advocate for the Respondents 1 and 2 : Shri Ajinkya Deshmukh h/f Shri  
A.V.Hon.

...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 05<sup>th</sup> March, 2018**

**Per Court:**

1           The Petitioner submits that Respondent No.6 is his real sister and he has personally served her. Yet, no appearance has been entered.

2           This Court (Nitin W. Sambre, J.) had ordered on 29.11.2017 that the Petitioner would furnish the correct address of Respondent Nos.5 and 6 and failure to do so, would render the petition liable for dismissal without reference to the Court.

3           The Petitioner has tendered the purshis on 07.12.2017 mentioning the same address of Respondent No.6. Nevertheless, the Petitioner makes a statement that Respondent No.6 has been served.

4           The Petitioner is before this Court challenging the order dated 12.02.2016 passed by the Trial Court below Exhibit 58 in RCS

No.19/2014 concluding therein that separate orders in the same cause have been passed on 30.06.2015 in Special Civil Suit No.8/2012 and the order dated 29.08.2015 was passed in RCS No.19/2014. Both these orders have not been placed before this Court.

5           This Court (Sunil P. Deshmukh, J.), by order dated 05.04.2016, has stayed all the three suits i.e. RCS No.18/2014, RCS No.19/2014 and Special Civil Suit No.8/2012.

6           I have considered the submissions of the learned Advocates for the respective sides.

7           The Petitioner herein is Ashok Motilal. Popatlal Motilal has filed RCS No.18/2014 against Ashok Motilal. The said suit is with regard to the claim of Popatlal for seeking possession of the properties mentioned therein. RCS No.19/2014 is also filed by Popatlal in which there are seven Defendants, seeking partition and separate possession of the ancestral properties. Apparently, the prayers put forth in RCS No.19/2014 are different from those put forth in RCS No.18/2014. Barring Ashok Motilal in RCS No.18/2014, there are six other parties, who are Defendants in RCS No.19/2014.

8           Dilip Motilal and Ashok Motilal have filed Special Civil Suit No.8/2012 against ten Defendants. Barring five Defendants in RCS No.19/2014 (two Defendants are the Nagar Urban Cooperative Bank and Bank of Baroda), there are five other Defendants in Special Civil Suit

No.8/2012 which is for seeking possession of about 20 properties and for partition.

9           The Trial Court, while rejecting the application Exhibit 58, has observed that the litigating sides would be at liberty to move the appropriate Court for having the three matters placed before one Court in the light of the circular dated 23.03.2015 issued by the learned Principal District Judge, Ahmednagar. It also appears that the Trial Court, which has passed the impugned order, has rejected the similar requests by orders dated 30.06.2015 in Special Civil Suit No.8/2012 and dated 29.08.2015 in RCS No.19/2014. It has also noted that there are three different causes of action and there are several different Defendants.

10           Considering the above, I do not find that the impugned order could be termed as being perverse or erroneous merely because a different view could be possible in the facts and circumstances of the case.

11           This Writ Petition being devoid of merit is, therefore, dismissed.