

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4706 OF 2017

(Vishwanath s/o Sopan Pilgure Vs. Kalubai w/o Bhimrao Ganapure
and others)

Mr.D.S.Kudale, Advocate for the petitioner.

Mr.A.N.Sabnis h/f Mr.V.D.Gunale, Advocate for respondent Nos.1 and 2.

Mr.S.S.Shinde, Advocate for respondent No.3.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 14/08/2018

PER COURT :

1. The petitioner/original appellant before the Appellate Court is aggrieved by the order dated 07/02/2017 by which the Appellate Court has rejected application Exh.30 filed under Order XXXXI Rule 25 in the Reg.Civil Appeal No.5/2012. Grievance of the petitioner/appellant is that he had prayed for framing of certain issues so as to be referred back to the Trial Court for trying the said issues.

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

3. The Appellate Court has rejected Exh.30 by considering that the proposed issue in respect of partition, has been dealt with by the

Trial Court in paragraph No.17. Similarly, the issue sought to be framed with regard to whether the suit property is a self acquired property in land S.Nos. 3/2 and 4/3, has also been considered by the Trial Court in paragraph Nos.21 to 24 of the judgment.

4. In the light of the above, I do not find that the impugned order could be branded as being perverse and erroneous since the main appeal is pending and the grounds raised by the appellant would surely be gone into by the Appellate Court while deciding the appeal finally.

5. In view of the above, this petition is disposed of. The Appellate Court is expected to decide RCA No.5/2012, as expeditiously as possible and preferably on or before 28/02/2019.

(Ravindra V.Ghuge, J.)

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