IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9721 OF 2015

BHAIDAS DEEPCHAND PATIL
VERSUS
DATTATRAYA VASANTRAO PATIL
...
Advocate for Petitioner : Shri Sawant Amol S.
Advocate for Respondent : Shri Kulkarni Mukul S.
...
CORAM : RAVINDRA V. GHUGE, J.
Dated: December 05, 2018
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PER COURT :-

1. The petitioner / original defendant is aggrieved by the judgment and order dated 5.8.2015 delivered by the appellate Court, by which, MCA No.45 of 2015 has been allowed and the order of the trial Court dated 22.6.2015 rejecting application Exhibit 5, filed by the plaintiff seeking injunctory orders, has been quashed and set aside.

2. The learned counsel for the petitioner has strenuously criticized the impugned judgment and submits that the appellate Court should not have exercised it's appellate jurisdiction, when the trial Court has refused injunction to the plaintiff. Merely because a second view is possible, an interference is not justified. He has drawn my attention to the grounds of challenge formulated in the memo of petition.

3. Learned Advocate for the plaintiff submits that the appellate Court has delivered a 20 pages judgment. On the issues cast on internal page No.4, it is held that the trial Court has erred in rejecting application Exhibit 5. Finally it is concluded that the Misc. Civil Appeal is allowed and the order of the trial Court is quashed and set aside. The impugned judgment is delivered on 5.8.2015. Three years and four months have passed by. It is futile to consider this petition and instead, the suit could be expedited. Learned Advocate for the petitioner also prays that the suit be expedited.

4. I find that as the impugned judgment of the appellate Court is in force for three years and four months, ends of justice would be met by expediting the suit.

5. As such, this petition is disposed off with a direction to the trial Court to decide RCS No.27 of 2015 on its own merits without being influenced by the observations of the appellate Court and the said suit shall be disposed off on/or before 30.9.2019.

(RAVINDRA V. GHUGE, J.)

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