

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11777 OF 2015
(Suresh Anantrao Ghate and another Vs. Sharad Devidasrao Pande
and another)

Mr.S.A.Deshmukh, Advocate for the petitioners.
Mr.S.P.Joshi, Advocate for respondent Nos.1 and 2.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 14/08/2018

PER COURT :

1. Both these petitioners, who are original defendant Nos. 6 and 7, are aggrieved by the order passed by the Trial Court dated 21/10/2015 by which application Exh.213, praying for leave to file the written statement, has been rejected.

2. I have heard the learned Advocates for the respective sides for quite some time. The petitioners rely upon the view taken by the learned Division Bench of this Court (Coram : Swatanter Kumar, Chief Justice and S.A.Bobade, J. as the Hon'ble Judges then were) in the matter of Mont blanc Properties and Industries Ltd., Vs. Mont Blanc Co-operative Housing Society Ltd., and another [2009(2) Bom.C.R. 505].

3. The following dates and events are undisputed :-

[a] RCS No.155/2003 was filed by the respondents / original plaintiffs seeking declaration of ownership and injunction against the petitioners/defendants.

[b] Land Survey No.380(1) admeasuring 4 acres and 3 gunthas was the suit property.

[c] The Trial Court has ordered "No W.S." against these petitioners who are defendant Nos. 6 and 7, on 24/06/2004.

[d] An application Exh.37 was filed on 27/04/2004 seeking recalling of the "No W.S.Order".

[e] Exhibit 37 has been rejected by the Trial Court.

[f] Rejection of Exh.37 was challenged in WP No.677/2006 which has been dismissed by this Court on 14/02/2006, thus rendering finality to the "No W.S." order.

[g] Application Exh.77 for seeking recalling of the "No W.S.Order" was again filed on 22/11/2007.

[h] Exhibit 77 was also rejected.

[i] The order rejecting Exh.77 was challenged in WP No.396/2007 which was dismissed by this Court on 26/11/2007 keeping in view that the "No W.S." order has been sustained by this Court while rejecting WP No.677/2006.

[j] A Third application Exh.213 is filed by these petitioners praying for the same relief that was sought in Exh.37 and Exh.77.

[k] By the impugned order, this third application is also rejected.

4. I find that these two petitioners have intentionally and willfully

suppressed from this Court the details about the two writ petitions filed in this Court in the same cause, by which the earlier request of these petitioners seeking leave to file their written statement, was rejected by this Court. To say the least, the conduct of these petitioners is deprecable.

5. Considering the above, the conduct of the petitioners and the facts emerging from this case, the view taken by the Hon'ble Apex Court in the matter of Kishore Samrite Vs. State of UP and others, [(2013) 2 SCC 398] and Bhaskar Laxman Jadhav and others Vs. Karamveer Kakasaheb Wagh Education Society and others [AIR 2013 SC 523], by which it is laid down that litigants who intend to snatch orders from the Court by suppressing material information, should not be granted any relief, much less any sympathy, is squarely applicable to this case.

6. In view of the above, this petition is dismissed with costs. The amount of Rs.10,000/- (Rs.Ten Thousand only) deposited in this Court, by the consent of the learned Advocate for the respondents shall be donated to a public cause for treatment of poor patients with the Government Medical College and Hospital, Aurangabad, **through Medical Officer, High Court Dispensary, Aurangabad**, alongwith

accrued interest. The Registry of this Court shall transfer the said amount forthwith.

7. The Trial Court shall proceed to deliver its judgment in RCS No.155/2003 expeditiously.

(Ravindra V.Ghuge, J.)

Kranti Hansraj Shekatkar	Digitally signed by Kranti Hansraj Shekatkar Date: 2018.08.21 10:34:26 +0530
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