

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1128 OF 2018

SHIVAJI ASHOK TULJAPURE
VERSUS
BALAJI RAMBHAU SALUNKE

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Advocate for Petitioner : Shri N.P. Patil - Jamalpurkar

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 30, 2018

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PER COURT :-

1. The petitioner is aggrieved by the order dated 20.6.2017, by which, according to the petitioner, his objections with regard to the tenability of Misc. Application No. 12 of 2015 have been put to rest and the trial Court has concluded that the said application is tenable.

2. Grievance is that a consent decree dated 19.12.1998 passed in RCS No.619 of 1988 is sought to be questioned and annulled under Section 151 of the CPC. Further grievance of the petitioner is that the impugned order dated 20.6.2017 leads to the conclusion that Civil Misc. Application No.12 of 2015 is maintainable and as such, the objections of the petitioner have not been properly considered. It is further contended that the law of limitation would strike at the roots of the said application and that objection is also ignored by the impugned order.

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3. Considering the observations of the Court in paragraph No.6 of the impugned order, I find that the petitioner's apprehension is totally misplaced. When the trial Court has noted, "Therefore, subject to the law of limitation and right of the respondent to challenge the tenability of the application" and the operative part of the order concluding that, "The application would be decided in accordance with law after framing appropriate issues", puts the apprehension of the petitioner to rests.

4. This petition being devoid of merits is dismissed.

(RAVINDRA V. GHUGE, J.)

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