

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11287 OF 2017

Anjuman-I-Islam Public Trust, Mumbai ... Petitioner
Versus
Gram Panchayat Pangari and others ... Respondents

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Mr. R. C. Borge for Petitioner.
Mr. A. R. Metkari, AGP for Respondent Nos. 2 and 3.

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CORAM : MRS. MRIDULA BHATKAR, J.

DATE : 5th JULY, 2018.

P. C.:

1. Upon urgent mentioning, the matter is taken on Production Board.

2. This writ petition is directed against the order dated 21/11/2016 below Exhibit-59 passed by the Joint Civil Judge, Senior Division, Satara in Regular Civil Suit No. 225 of 2011, rejecting the application of the Petitioner that he be allowed to pay the requisite amount of the fees of the Deputy Superintendent of Land Record for doing the commission work. The Petitioner -Plaintiff has filed application for appointment of the Court Commissioner, the same was allowed on 30/03/2012 with

direction that he shall pay the Court Commissioner's fees and the Court Commissioner was directed to submit his report within three weeks thereafter. Further, the Petitioner-Plaintiff did not take steps for implementation of the said order for five years and then moved an application in the year 2016 which is marked as Exhibit-59 . The Defendant on the said application has given reply as follows.

“Hon'ble Court may kindly pass necessary order in the interest of justice.” (dated – 19/11/16).

3. The learned Judge of the trial Court has rejected the said application, as there was inordinate delay on the part of the Plaintiff.

4. Learned Counsel submits that, the Petitioner-Plaintiff is ready to pay the requisite fees to the Court Commissioner and the Court Commissioner be allowed to carry on the work and submit report within three weeks as directed by the Judge of trial Court by its order dated 30/03/2012.

5. In the present case, the notice is not issued or served to the Respondent No.1. However, this petition can be concluded at this

stage without issuing notice to the other side in view of the say filed by the Defendant in the original application i.e. Exhibit-59 as mentioned above. The Petitioner-Plaintiff was negligent in pursuing the implementation of the orders passed by the trial Court. However, the application for appointment of Commissioner was allowed, therefore, this Petition can be disposed of by following order.

:: ORDER ::

- (i) The order dated 21/11/2016 below Exhibit-59 in Regular Civil Suit No. 225 of 2011 passed by the learned Joint Civil Judge, Senior Division, Satara is hereby set aside.
- (ii) The Petitioner-Plaintiff is directed to deposit the requisite fees of the Court Commissioner before 19th July, 2018. No further time can be granted thereafter.
- (iii) The Court Commissioner to implement the order of the trial Court dated 30/03/2012.

(iv) The work of the Court Commissioner and the payment of the fees is subject to condition that the Petitioner-Plaintiff shall pay Rs.500/- to the Defendant towards cost on 7th July, 2018.

6. Writ Petition is disposed of accordingly.

(MRIDULA BHATKAR, J.)