

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 7398 OF 2016

Shaila Pradeep Chavan
And Anr.

...Petitioners

Versus

Gopal Kadima Devadiga

...Respondent

....

Mr. Sudhir V. Sadavarte, Advocate for the Petitioners.

....

CORAM : R. G. KETKAR, J.

DATE : 20th APRIL, 2018

P.C.

1. Not on board. At the request of Mr.Sadavarte taken up for admission.
2. Heard Mr.S.V. Sadavarte, learned counsel for the petitioners, at length.
3. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the judgment and order dated 30.3.2016 passed by the learned 5th Jt. Civil Judge, Junior Division, Karad below Exhibit-18 in R.C.S. No.143/2015. By that order, the learned trial Judge allowed the application made by the respondent/defendant under Order IX Rule 13 of C.P.C. and set aside

the exparte decree.

4. Mr. Sadavarte submitted that the learned trial Judge committed serious error in allowing the application. The learned trial Judge erroneously held that the defendant did not get any opportunity in the trial and the suit was decreed immediately after evidence of the plaintiff was over. The learned trial Judge further held that since the dispute is in respect of immovable property, it should have been disposed of on merits. By denying opportunity to the defendant to file written statement, it has caused serious prejudice and has affected his rights. Even the order was passed in breach of principles of natural justice.

5. For the reasons recorded in paragraph-12 of the impugned order, I do not find that the learned trial Judge has committed any error in allowing the application. Hence, no case is made out for interfering with the impugned order. Petition fails and the same is dismissed. As the suit is of the year 2015, hearing of the suit is expedited.

(R. G. KETKAR, J.)