

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

WRIT PETITION NO. 1542 OF 2017

Smt. Laxmi Narayan Kharose ... Petitioner

Vs.

Smt. Smita Dyanneshwar Kharose & Ors. ... Respondents

.....

Mr. Sanjiv Sawant for the Petitioner.

Mr. Girish R. Agrawal for Respondent No.1.

Mr. Himanshu Kode for Respondent Nos. 2, 3A to 3D and 4 to 7.

Mr. Ajinkya M. Udane for Respondent Nos. 8 to 10.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: JUNE 27, 2018**

P.C. :

1. Rule. Rule made returnable forthwith. By consent of the parties, the Writ Petition is disposed of at the stage of admission.

2. This Petition invoking the Writ Jurisdiction of this Court under Article 227 of the Constitution of India is filed wherein the orders dated 1st August, 2016 passed by the learned 9th Jt. Civil Judge, Senior Division, Pune below exhibits 204 and 32 in Special Civil Suit No. 417 of 2000 are challenged.

3. Both these Applications below exhibits 204 and 32 were moved by the petitioner, who is the original plaintiff in the suit. The application below exhibit 204 was moved for seeking direction against defendant nos. 1, 8 to 10 for depositing the amount of their income in the Court and the application below exhibit 32 was moved for appointment of the Court Receiver. The original plaintiff has filed a Special Civil Suit No. 417 of 2000 against her daughter-in-law, daughters and sons. Defendant no.1 i.e., respondent no.1 is the main contesting party. She is a widow. Both the Applications were rejected by the trial Court, vide order dated 1st August, 2016. Hence, this Writ Petition.

4. The learned Counsel for the petitioner has submitted that the petitioner claims partition as per her 1/6th share in the licence fees business, which is run by her daughter-in-law i.e., defendant no.1. He has further submitted that the disputed property was purchased by the husband of the plaintiff. Defendant no.1 i.e., daughter-in-law claims that the disputed property was purchased by her deceased husband and it was self acquired property. The trial of the suit is at midst in the trial Court. The cross-examination of the plaintiff is partly conducted. She is 79 years old.

5. After going through the papers and submissions made by the learned Counsel for the petitioner, I am of the view that no interference is required in the orders dated 1st August, 2016 passed by the learned 9th Jt. Civil Judge, Senior Division, Pune. The trial Court to expedite the matter, hear and conclude the suit till 31st March, 2019. The cross-examination of the plaintiff is to be completed on or before 16th July, 2018.

6. Considering the relationship and nature of the dispute between the parties, it is suggested by the Court that without prejudice to the interest of the parties and without affecting the merits of the case, some amount is to be given to the original plaintiff by defendant no.1/respondent no.1.

7. After considering the suggestion, the learned Counsel for respondent no.1 submits that she is ready to pay an amount of Rs.7500/- p.m. to the petitioner till final decision of the suit. However, this Court suggested that the amount is to be made Rs. 10,000/- p.m. The learned Counsel for respondent no.1 accepts the suggestion and thus, the following order is passed:

ORDER

- (i) Respondent no.1 i.e., daughter-in-law shall deposit an amount of Rs. 10,000/- directly in the account of the petitioner i.e., mother-in-law before 5th day of each month till final decision of the suit.
- (ii) Parties to co-operate the trial Court.

8. In view of the above, Writ Petition is disposed of.

(MRIDULA BHATKAR, J.)