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IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.3396 OF 2016

Pramod s/o Jaychand Sand ... PETITIONER

VERSUS

Sau. Rajani w/o Ranjan Khanolkar
and others ... RESPONDENTS

.....
Shri C.V. Korhalkar, Advocate for petitioner
Shri N.L. Jadhav, Advocate for respondent No.1
.....

CORAM: R.G. AVACHAT, J.

DATED : 27th AUGUST, 2019.

ORDER :

Heard Mr. Korhalkar, learned counsel for the petitioner and Mr. Jadhav, learned counsel for respondent No.1. The challenge in this Writ Petition is to the order dated 7/9/2015, passed by the Jt. Civil Judge, Junior Division, Rahata, allowing the application (Exh.300) in Regular Civil Suit No.29/2004, framing a few additional issues.

2. The petitioner herein is the original defendant No.3 in the suit. He claims to have purchased the suit property. He also

claims to have no knowledge of the transactions between the plaintiff and original defendant No.1. According to learned counsel, the recast issues indicate that the burden of proof has been placed on the defendant No.3/ petitioner herein regarding payment of consideration as regards the transaction of sale that took place between the plaintiff and the deceased defendant No.1.

3. The suit dates back to 2004. The impugned order was passed in August 2015. It has been reported by the learned counsel for respondent/ original plaintiff that, recording of the evidence in the suit has already been over. The parties to the suit adduced the evidence in support of their respective case. The suit would be decided on its own merits in a couple of months. If the issues are again recast, the parties may seek for production of additional evidence. The same would not be in the interest of justice particularly in view of the fact that the parties have let in evidence.

4. In the aforesaid factual backdrop, no interference with the impugned order is called for. Needless to state that, the petitioner/ defendant No.3 is at liberty to agitate the points raised in this Writ Petition in an appeal, if any, that may be filed against the judgment and decree to be passed in Regular Civil Suit

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No.29/2004. It would also not be out of place to state that, in such situation, the appellate Court would decide such contention on its own merits.

5. Writ Petition stands disposed of in above terms.

(R.G. AVACHAT)
JUDGE

fmp/-