

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10358 OF 2019

CHAIRMAN PEER MUSTAFA WAKF COMMITTEE CHOPDA
VERSUS
SHANTILAL MISSARLAL JAIN THROUGH GPA SANJAY
SHANTILALJAI AND OTHERS

Mr.Shaikh Mujtaba Gulam Mustafa, Advocate for the petitioner.
Mr.U.S.Malte, Advocate for respondent Nos. 1 to 8, 11 and 13.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 01/10/2019

PER COURT :

1. The petitioner/original defendant in RCS No.65/2012 is aggrieved by the order dated 08/01/2019 passed by the Trial Court, by which application Exh.76 seeking rejection of the plaint, after 7 years of the lodging of the suit, under Order VII Rule 11(d) of the CPC, has been rejected.

2. I have considered the submissions of the learned Advocates for the respective sides. The learned Advocate for the petitioner has drawn my attention to the 14 grounds formulated in the memo of the petition. He relies upon the order delivered by the Hon'ble Apex Court in the matter of Syed Mohideen and another Vs.

Ramanathapura Peria Mogallam Jamath and others [(2011) AIR (SCW) 3568].

3. I find from the record that the petitioner had earlier preferred an application Exh.18 invoking Section 9-A, Maharashtra Amendment to the CPC and had contended that considering Section 85 of the Wakf Act, the Civil Court had no jurisdiction. By a reasoned order dated 25/04/2013, Exh.18 was rejected. Said order was not challenged and has attained finality. After 5 years, Exh.76 has been filed when the suit is more than 7 years old.

4. Considering the above and since the view taken in Syed Mohideen is on a different issue and as the Trial Court had already passed an order dealing with the jurisdiction issue, which order has not been challenged, this petition is dismissed.

(Ravindra V.Ghuge, J.)