

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3152 OF 2019
(Parubai w/o Mahadeo Shinde Vs. Ajinath Ganpati Shinde and
others)

Mr.R.C.Bramhankar h/f Mr.N.L.Jadhav, Advocate for the petitioner.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 09/07/2019

PER COURT :

1. Despite service of Court notice, the respondents have not caused any appearance.
2. I have heard the learned Advocate Mr.Bramhankar on behalf of the petitioner, who is the defendant in RCS No.174/2014.
3. The synopsis filed by the petitioner is lacking in details. Complete information is not divulged in the synopsis. Date column is empty. Such synopsis is not to be accepted.
4. The plaintiff in the suit filed an affidavit in lieu of examination in chief on 22/08/2017. The suit is for perpetual injunction against the petitioner/defendant on the ground that the petitioner is creating

disturbances and is preventing the plaintiff from enjoying his property. As the petitioner did not cross examine the plaintiff, 'no cross order' was passed on 16/07/2018.

5. The petitioner filed application Exh.55 on 08/08/2018 and the same was allowed by an order of the same date. Costs of Rs.500/- was imposed on the defendant. The said order was not complied with and the 'no cross order' was therefore restored. The petitioner then preferred application Exh.64 on 26/09/2018, once again requesting for permission to cross examine the plaintiff. The Trial Court has rejected the said application by the impugned order dated 29/01/2019 on the ground that false reasons were cited by this petitioner.

6. The suit is of 2014 and cannot be said to be too old. However, by the conduct of the petitioner, she has wasted 2 years of litigation time of the plaintiff as well as of the Court. The suit is purely for injunction and an immovable property is not involved. I could have dismissed this petition since it appears that the petitioner can only blame herself for the present situation in the suit. However, as a last chance, in view of the suit being only 5 years old, I am entertaining this petition.

7. Considering the above, this petition is allowed. The impugned order dated 29/01/2019 is quashed and set aside and application Exh.64 is allowed with the following directions :-

[a] The petitioner shall deposit an amount of Rs.5,000/- before the Trial Court on or before 31/07/2019, failing which, the order of the Trial Court dated 29/01/2019 below Exh.64 shall stand restored on 01/08/2019. The request for enlargement of time u/s 148 of the CPC shall not be entertained.

[b] The petitioner shall cross examine the plaintiff on the date on which the matter is posted by the Trial Court, after depositing the costs and the petitioner shall not seek an adjournment even for one day.

[c] The plaintiff shall withdraw the amount of costs from the Trial Court without conditions.

[d] The Trial Court shall refuse an adjournment to the petitioner/defendant, if they are based on unreasonable grounds and shall proceed with the suit.

(Ravindra V.Ghuge, J.)