

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7595 OF 2019

Naval s/o Laxmanrao Deshmukh

Petitioner

Versus

Prashant @ Narayan s/o Anantrao
@ Dajisaheb Deshmukh
& others

Respondents

Mr. M.D. Narwadkar, Advocate for the petitioner.

CORAM : Ravindra V.Ghuge, J.

DATE : 05/07/2019

PER COURT :

1 I have heard the learned advocate for the petitioner who has strenuously criticised the impugned order dated 04.01.2019 passed by the trial Court vide which his application Exhibit 157, filed in Regular Civil Suit No. 06/2009 (Special Civil Suit No. 26/1978), has been rejected.

2 The petitioner, in his capacity as defendant no. 8, had filed Exhibit 157 invoking Section 10 of the Code of Civil Procedure praying for staying the subsequent suit i.e. Regular Civil Suit No. 6/2009.

3 It appears that Special Civil Suit No. 65/1976 was instituted seeking partition and separate possession. Defendant no. 1 had preferred Special Civil Suit No. 26/1978 as a counter to the earlier suit. Counter claim was not filed and instead of that the suit was preferred. The earlier suit of 1976 was decreed by the trial Court on 29.06.1981. Regular Civil Appeal No. 22/2001 was dismissed on 24.12.2004. Second Appeal no. 85/2007 was allowed by this Court vide order dated 17.06.2009 and Regular Civil Appeal No. 22/2001 was restored to the file of the first appellate Court.

4 Considering the above, I find it appropriate to direct the learned first appellate Court to decide Regular Civil Appeal No. 22/2001 as expeditiously as possible and in any case, on or before 31.08.2019. The appellate Court would ensure that the oral submissions of the litigating sides are concluded on or before 31.07.2019. If necessary, the learned Court would proceed with the appeal on day-to-day basis as the appeal is 37 years old (Old RCA No. 45/1982 which is 37 years old).

5 Needless to state, after the appeal is decided, the parties would be left to avail of the remedies as are permissible in law.

6. With the above directions, this petition is disposed off.

(Ravindra V.Ghuge, J.)

dyb