

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6989 OF 2018

PRAKASH SHEKUJI PATIL
VERSUS
VINAY GENDAMAL BATIYA AND OTHERS

Advocate for Petitioner : Mr. S.K. Chavan.
Advocate for Respondent No. 1 : Mr. Arvind Deshmukh.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 18.02.2019

PER COURT :

1. I have heard the learned advocates for the respective sides.
2. RCA No. 118/2017, is pending adjudication before the appellate Court. Issue is as regards the judgment and decree dated 06.05.2017, delivered by the trial Court in Special Civil Suit No. 21/2009, which is said to be an ex-parte decree, according to the original defendant.
3. By the impugned order dated 05.03.2018, the execution of the decree has been stayed subject to the original defendant No. 1 depositing Rs. 5 lakhs in the appellate Court. The said order is said to have been complied with.

4. Learned counsel for the original plaintiff submits that the decree is for an amount of Rs. 20 lakhs and if the interest is assessed, it is likely to rise to Rs. 38 lakhs.

5. Considering the above and since the original plaintiff has not withdrawn the amount from the appellate Court in view of the objections of the defendant No. 1, this petition is disposed of with the following directions :-

(a) The litigating sides would endeavour to conclude their final submissions in RCA No. 118/2017, on/or before 30.03.2019.

(b) If required, the defendant No. 1 shall tender a private paper book expeditiously, so as to ensure the conclusion of the final arguments within the above stated time frame.

(c) The trial Court would endeavour to decide the Appeal as expeditiously as possible and preferably on/or before 30.04.2019.

(d) Liberty is granted to the plaintiff to withdraw the amount of Rs. 5 lakhs from the appellate Court on an affidavit undertaking that if eventually in this civil litigation, he is held to be unsuccessful or is held to have withdrawn an access amount, the said amount shall be re-deposited in the Court in which the final order is passed, within six weeks and without interest.

(e) If the amount is not deposited within this period, the said amount shall carry interest at the rate of 4 % from the date of such judgment, till actually deposited in the Court.

(RAVINDRA V. GHUGE, J.)

S.P.C.