

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO.210 OF 2018
IN WP/13972/2017

BALBHIM VISHWANATH TAWASKAR
VERSUS
SUMANBAI GAURISHANKAR SHIRAL AND OTHERS

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Advocate for Applicant in RA 210/2018 : Shri Wakure Sanjay A.
AGP for Respondents 2 in RA No.210/2018 : Shri Bhagat N.T.
Advocate for Applicant in another RA 211/2018 : Shri Lade R.A.
h/f Shri Shaikh Shoyab

Advocate for Original Petitioners : Shri Ostwal A.D.
Advocate for Respondents 2 & 8 in WP : Shri Undre V.S.
Advocate for Respondents 12 to 15 in WP : Shri Vibhute V.M.
Advocate for Respondent 9 in WP : Shri Vibhute V.M.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: February 01, 2019

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PER COURT :-

1. The review petitioner seeks review of the order dated 18.7.2018, passed by this Court, by which, the trial Court was directed to decide Special Civil Suit No.38 of 2011 on/or before 28.2.2019 and the ad-interim protection granted earlier on 20.12.2017 would continue till the suit is decided or till 28.2.2019, whichever is earlier.

2. I have perused the good grounds certificate issued by the learned Advocate for the review petitioner.

3. I have perused the orders passed by this Court (Coram : T.V.

Nalawade, J.) dated 2.9.2016, delivered in Writ Petition No.1652 of 2016, filed by this review petitioner, by which, the Writ Petition was allowed and the order made by the competent authority under Section 3H(4) of the National Highways Act, 1956, referring the matter to the Civil Court, has been set aside. However, liberty was granted to the litigating sides to approach the Civil Court for filing a substantive suit for seeking relief of partition. It was observed that such suit seeking partition is pending.

4. This Court (Coram : V.K. Jadhav, J.) had granted ad-interim orders on 20.12.2017 in Writ Petition No.13972 of 2017. For the reasons recorded, this Court directed that the amount already sent to the Civil Court would not be disbursed to any of the parties till next date.

5. In view of the above, I do not find any ground for causing interference in a consenting order, by which, the consent of the Advocates for an expeditious disposal of the suit was recorded. As such, this application is an example of frivolous litigation. This is squarely covered by the law laid down by the Honourable Apex Court in the matter of Associated Tubewells Limited Vs. R.B.Gujarmal Modi [AIR 1957 SC 742] and in the matter of State of Haryana and others Vs. M.P.Mohla [(2007) 1 SCC 457].

6. Considering the above, this review application is rejected by imposing costs of Rs. 25,000/- which the review petitioner shall deposit in this Court within six weeks from today.

7. At this juncture, learned Advocate for the review petitioner insisted that all his contentions pertaining to the Writ Petition filed by the petitioner Sumanbai, should be considered and be dealt with. He further submits that he was not before the Court, where the order under review was passed.

8. I find that the contentions of the counsel to be contemptuous for being against the record that appears in the order dated 18.7.2018. If he had any thing to express, he should have appeared before the Court and should have expressed his view on the same date. Having filed a review application after 30 days and now contending that he was not heard, when the order indicates that the Advocates had consented for a early disposal of the suit, amounts to 'sharp practice'.

9. At this juncture, the learned Advocate for the petitioner Shri Wakure tenders an apology.

10. In view of the above, no further orders.

11. Learned counsel now submits that the costs may be reduced to Rs.5,000/-. The said request is accepted. Review petitioner shall deposit the said amount with the Government Medical College and Hospital, Aurangabad, **through Medical Officer, High Court Dispensary, Aurangabad**, either in cash or by Demand Draft (Demand Draft be drawn in the name of “**Dean, Government Medical College and Hospital Dengi Samiti, Aurangabad**”) within three weeks from today.

(RAVINDRA V. GHUGE, J.)

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