

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

902 WRIT PETITION NO.13359 OF 2017

PRADEEP NARAYANDAS RIZWANI
VERSUS
SUMITRABAI BHUJANGA KADAM AND OTHERS

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Advocate for Petitioner : Shri Katneshwarkar P.R.
h/f Shri Gadhe Ganesh A.

Advocate for Respondents 1 to 6 : Shri Deshmukh Rajendra S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: November 28, 2019

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PER COURT :-

1. This matter is heard extensively. Forty years' history of litigation is ably narrated before the Court by the learned Advocates, notwithstanding that this Court is exercising its supervisory jurisdiction only as regards the impugned order dated 8.8.2017, which has resulted in rejecting application Exhibit 41 filed by the decree holder in R.D.No. 83 of 2013.

2. Exhibit 41 was preferred by the decree holder for erecting a protective compound wall so as to protect his property against encroachment, in view of the injunction in his favour. Police aid was sought on the ground that respondent Nos. 4 to 6, who have been added subsequently on account of being of the supporters of the judgment debtors though unconnected with the suit and the

property.

3. I noticed that if this Court is to consider the entire submissions of the litigating sides, it would amount to expanding the scope of the Writ of Certiorari in connection with the impugned order. The decree holder desired to construct a protective compound wall in 2015. Four years have passed. I, therefore, suggested to the parties that it would be appropriate to expedite the execution proceedings, which are six years old and considering that the litigation dates back to 1983, the executing Court could decide the proceedings within sixty days.

4. The learned Advocates appearing for the respective sides submit, on instructions, that the parties are agreeable.

5. In view of the above, by keeping open the desire of the petitioner to construct a protective compound wall, the trial Court is directed to decide R.D. No.83 of 2013 as expeditiously as possible on/or before 15.2.2020. The decision in the execution proceeding shall be pronounced on the said date.

6. The executing Court is at liberty to conduct the said proceedings on day-to-day basis, preferably from 3 p.m. onwards on

every day, so as to enable the Court to take up other matters prior to 3 p.m. The litigating sides agree to deposit Rs.5,000/- as costs for seeking any adjournment and such amounts shall be utilized for the District Legal Aid Services. In the event the executing Court finds that an adjournment is sought on an unreasonable ground, it would be at liberty to reject such an application.

6. As noted above, the execution proceedings shall be decided on its own merits and the impugned order dated 8.8.2017 would not be an impediment.

(RAVINDRA V. GHUGE, J.)

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