

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST.) NO.24591 OF 2018

Pandurang Krishna Awate

.. Petitioner

V/s.

Kalpana Appaji Raut

.. Respondent

Mr.R.R.Naik I/b Mr.Umesh Mankapure for the petitioner

Mr.Sarvadnya Kadatane I/b Mr.Kuldeep U. Nikam for the respondent

CORAM: K.K. TATED, J
DATED : JANUARY 9, 2019

P.C. :

1 Heard.

2 After arguing for some time, both the counsel submitted consent minutes of order dated 09.01.2019. Same is taken on record and marked 'X' for identification. The same reads thus:

"CONSENT MINUTES OF ORDER"

1. The Petition under article 227 of the Constitution of India seeks to challenge the impugned order dated 26.07.2018, passed by Ld. District Judge-5, Sangli in Misc. Civil Appeal No. 151/2017.

2. The suit bearing R.C.S. No. 51/2016 is filed by the Petitioner/Plaintiff seeking relief of possession

and injunction qua the suit properties more particularly described in para 1 of the suit. The Petitioner/Plaintiff had filed an application below Exh. 5 seeking temporary injunction. The said application was allowed by Sixth Joint Civil Judge Jr. Division, Sangli by Order dated 14.09.2017.

3. Being Aggrieved by the said judgment and decree below Exh. 5 in R.C.S. No. 51/2016, the defendant had filed appeal bearing Misc. Civil Appeal No. 151/2017. The said appeal came to allowed by Order dated 26.07.2018 by Ld. District Judge-5, Sangli and hence the Petitioner/Plaintiff has filed the present Writ Petition.

4. After hearing the parties, when this court was not inclined to interfere in the impugned order, the Advocate for Petitioner, on instructions seeks liberty to withdraw the Petition with the request to expedite the hearing of the suit bearing R.C.S. No. 51 of 2016 pending to the file of Ld. Civil Judge Jr. Division. In view of above, in my considerate view, following order will serve the interest of justice;

ORDER

1. The Petitioner is allowed to withdraw the Petition as prayed and same is disposed off as withdrawn.

2. In the peculiar facts and circumstances of the case, the proceedings in R.C.S. No. 51/2016 pending to the file of Civil Judge Jr. Davison Sangli are expedited and the same shall be decided by the Ld. Trial Court on its own merit on or before 31.12.2019;

3. It is expressly made clear that this court has not adjudicated the merits of the original proceedings and same shall be decided by the Ld. Trial Court on its own merit and in accordance with law.

4. *No order as to cost.*

3 Same is accepted.

4 Writ Petition stands disposed of in terms of consent minutes of order.

(K.K. TATED, J.)