

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO.10084 OF 2019**

Kishan Narhari Dave And Ors. .. Petitioners

v/s.

Sheth Gangadas Vijbhukandas And
Shri Mulji Nandlal Religious And Charitable Trust ... Respondent

....

Ms. Sneha V. Agarwal, i/b. Mr. Lalit V. Jain, for the Petitioners.

Mr. V.Y. Sanglikar, i/b. Ms. Kanchan Pandare, for Respondent Nos. 1 to 6.

....

CORAM: S.C. GUPTE, J.

DATE : 23 SEPTEMBER, 2019.

PC:-

. Heard learned Counsel for the parties.

2. This writ petition challenges an order passed by the Appellate Bench of Small Causes Court on an appeal arising out of a MARJI application, which was for setting aside the ex-parte decree passed against Petitioner No.1 (original defendant no.1). After the matter is heard at some length, it is agreed between learned Counsel for the parties that the impugned order of the appeal court as well as the original order of the trial court on the MARJI application may be quashed and set aside; the application of defendant no.1 for setting aside the ex-parte decree be allowed; and the trial court be directed to expeditiously dispose of the suit. Accordingly, the impugned orders of the appeal court and trial court dated 20 August 2019 and 27 July 2018 are quashed and set aside. The

application of defendant no.1, being MARJI Application No.128 of 2016, is allowed. The Petitioners herein are joined as defendant nos.1(a) to 1(c) to the original suit as legal heirs of defendant no.1 (since deceased). Defendant nos.1(a) to 1(c) shall file their written statement within a period of two weeks from today. The hearing of R.A.E. Suit No.864 of 2012 is expedited. The trial court is requested to dispose of the suit as expeditiously as possible and preferably within a period of one year from today. The writ petition is disposed of accordingly.

(S.C. GUPTE,J.)

Smita
Gonsalves

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Smita Gonsalves
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