

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10455 OF 2019

Ajit Giridharilal Nahar	.. Petitioner
Vs.	
Prabhakar Sadashiv Satave and ors.	.. Respondents

Mr.Surel S. Shah, for the Petitioner.

CORAM : M.S.KARNIK, J.

DATE : 27th SEPTEMBER 2019

P.C. :

. Not on board. Taken on board.

2. Heard learned Counsel for the petitioner. Learned Counsel for the petitioner states that he has serious apprehension about the matter being heard by the learned trial Judge to whom the Principal District Judge has transferred the Special Civil Suit by the impugned order. According to learned Counsel, the matter was heard by concerned Judge 10 months back and therefore it cannot be said that the concerned Judge has substantially dealt with the matter.

3. An application was made by defendant No. 17 seeking transfer of the Suit from the Court of 7th Joint Civil Judge, Senior Division, Pune to the Court of 5th Joint Civil Judge, Senior Division on the ground that learned Judge who is now presiding over the Court of 5th Joint Civil Judge, Senior Division, Pune has substantially dealt with the matter in as much as part evidence was recorded before him and arguments of all the defendants was heard by him. After summer vacation, since assignment has changed, learned Judge Shri Dindokar the 7th Joint Civil Judge presided over the Court where the matter is pending.

4. It is in these circumstances, learned Principal District Judge has transferred the case. If it is the contention of the learned Counsel for the petitioner that arguments are advanced almost 10 months back, he can always make a request to the concerned Judge to rehear the matter as it is even the contention of the learned Counsel for the petitioner that the petitioner has not yet been heard. Learned Counsel would

submit that the manner in which defendant No. 17 made an application insisting that the matter be heard by a particular Judge raises an apprehension that petitioner may not get justice. The apprehension is unfounded.

5. Learned trial Judge is bound to hear the Petitioner before passing final orders. In the matter of transfer of proceedings from one Court to another, I see no reason to interfere with the order passed by the Principal District Judge who had based his opinion on the circumstance that since the matter was substantially heard by the concerned Judge, the proceedings were transferred to his Court. I see no reason to interfere with this order in the facts of the present case. Petition is rejected.

(M.S.KARNIK, J.)

Urmila P. Ingle
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