

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAW) NO. 1033 OF 2019
IN
WRIT PETITION NO. 1791 OF 2016

(Abhishek Ravishankar Agrawal Vs. M/s Rai Saheb Gopikishan Agrawal & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri A.M. Ghare, Advocate for the applicant.
Shri S.V. Purohit, Advocate for the non-applicants.

CORAM : A.S. CHANDURKAR, J.
DATE : 28TH JUNE, 2019.

1. By this application, the petitioner seeks appointment of a Court Receiver with regard to various properties mentioned in the plaint in Special Civil Suit No. 25 of 2010. In the application it is stated that the said suit in question has been filed for seeking the relief of partition and separate possession. While admitting the present writ petition in which there is a challenge raised to the adjudication of a preliminary issue, this Court had stayed further proceedings in the aforesaid suit. According to the petitioner, it is necessary to appoint a Court Receiver to take charge of the properties that are the subject matter of the suit on the ground that

the respondents are taking steps resulting in prejudice being caused to the legal rights of the petitioner.

2. Reply has been filed on behalf of the respondent nos. 1, 6 and 7 opposing the said application. It is stated that even before the trial Court an application at Exhibit 52 seeking similar reliefs had been filed but the said application was not prosecuted by the petitioner. Since, the proceedings with regards to existence of a public trust are pending before the Hon'ble Supreme Court and in view of the fact that further proceedings in the civil suit have been stayed, it is not necessary to consider the request for appointment of a Court Receiver.

3. Heard learned counsel for the parties. The suit in question seeks the relief of partition of various properties by declaring the respective shares of the parties. A further relief has been sought for restraining the defendants from creating any third parties rights therein. The proceedings of the suit have been stayed in view of the interim order dated 16th March, 2016. The proceedings before the Hon'ble Supreme Court with regard to declaration as regards the nature of those properties is also pending. The petitioner's-plaintiff's application under the provisions of Order XL Rule 1 of Code of Civil Procedure, 1908 before the trial Court is pending. In

view of the pendency of the aforesaid litigation, the application as filed before the trial Court can be directed to be considered on its own merits. Such consideration would be in the interests of justice and therefore keeping all rights and contentions of the parties open for being urged before the trial Court, it is directed that the application seeking appointment of a Court Receiver be considered by the trial Court on its own merits without being influenced by any observations made in this order. The Civil Application is disposed of in aforesaid terms.

JUDGE

sknair