

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1021 REVIEW APPLICATION (CIVIL) No.22/2020
IN WP/15407/2019

VINOD NAMDEO MEDHE
VERSUS
PRABHAKAR SUPDU MEDHE AND OTHERS

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Advocate for Applicant : Mr. Katneshwarkar P. R. and
Mr. A.S.Jadhav
Advocate for Respondent No.1 : Mr. Navandar Mehul Vikas.

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CORAM : V. K. JADHAV, J.
DATE : 24.01.2020

PER COURT :-

1. Heard both the sides.
2. I do not find any substance in this Review Application.
By order dated 18.12.2019, this Court (Coram : Ravindra V. Ghuge, J.) has dismissed the Writ Petition No.15407 of 2019. It appears that the suit has been instituted in the year 2003 seeking declaration of ownership on the basis of the adverse possession so also the declaration is sought in respect of the sale deed dated 04.07.2003 as being void. The issues were framed initially in the year 2012 and the issues were recasted in the year 2016-2017 respectively. The petitioner-original

defendant No.2 has filed an application Exh.1205 for examination of the witnesses 22 in numbers as detailed in the application. The Trial Court has rejected the Civil Application on the ground that the names of those witnesses are not mentioned in the list of witnesses and so also on the ground that the application Exh.1205 does not indicate as to how their examination is relevant and in what connection petitioner - defendant No.2 wanted to examine them. The petitioner has filed another application Exh.1206 for reviewing of the said order passed on 13.11.2019 below Exh.1205. However, the Trial Court after reiterating the same conclusions, rejected the said application. In paragraph No.8 of the order, this Court has specifically observed agreeing with the observations made by the Trial Court that the petitioner is delaying the proceedings and is desirous of examining 22 witnesses, whose nexus with the litigation is unexplainable.

3. The learned counsel for the petitioner seeks to review the order on the ground that in terms of the provisions of Order 16 Rule 1-A even though the names of the witnesses are not mentioned in the list of witness, any party to the suit, without applying for summonses under Rule 1, bring any

witness to give evidence or to produce the document. However, the said provision under Rule 1A of Order 16 is subject to the provisions of Sub Rule 3 of Rule 1. In terms of Sub Rule 3 of Rule 1, if the party wants to examine any witness other than whose names appeared in the list, the same is permissible if such party shows sufficient cause for the omission to mention the name of such witness in the said list. In the instant case, this court has observed that in the application Exh.1205, the petitioner has not mentioned as to the nexus of 22 witnesses with the pleadings. Furthermore, there is nothing in this Review Application to suggest reasons as to the names of those witnesses omitted to mention in the witness list.

4. In view of this, I find no substance in this Review Application.

5. Review Application is hereby dismissed.

(V. K. JADHAV, J.)

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vmk/-