

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3139 OF 2020

SANJAY RUSTUM CHATE AND OTHERS
VERSUS
JYOTIRAM DADARAO CHAURE

Mr.V.M.Chate, Advocate for the petitioners.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 26/02/2020

PER COURT :

1. The petitioners/original plaintiffs in RCS No.106/2017, are aggrieved by the order dated 17/12/2019 passed by the Trial Court in which application Exh.16, filed by the defendant praying for permission to file the written statement, has been allowed by imposing costs.

2. The learned Advocate for the petitioners has vehemently criticized the impugned order and has placed reliance upon the 9 grounds formulated in the memo of the petition. The judgment of the Punjab and Haryana High Court in the matter Karamjit Singh Vs. Balwinder Singh and others (2019) 4 CivCC 613=MANU/PH/2617/2019 is cited wherein the defendant was

precluded from filing a written statement since the period of 90 days prescribed under Order VIII Rule 1 of the CPC, had lapsed.

3. I find the sequence of events in this matter as under :-

[a] The defendant appeared in the suit on 27/04/2017.

[b] “No written statement order” was passed on 06/09/2017.

[c] The suit was adjourned from time to time and the plaintiff concluded the recording of his oral evidence on 23/10/2019.

[d] Application Exh.16 was filed by the defendant on 28/11/2019.

4. I find from the record that an immovable property is the suit property and the plaintiff has preferred the suit for a declaration that the registered sale deed No.486/2005 be declared as a fraudulent conveyance and null and void. Possession of the suit property is sought, which is with the defendant. This suit has been filed on 31/03/2017, after 12 years of the sale deed, being registered in Day Book No.486/2005.

5. In the above backdrop, denying a chance to the defendant to file a written statement would virtually shut the doors of litigation for him at the very first Court level. He would be rendered defenceless and remediless. The Trial Court has imposed costs of Rs.1000/-

and has allowed the written statement to be filed.

6. Considering the above, I do not find that the impugned order could be termed as being perverse or erroneous. This petition, being devoid of merit, is therefore dismissed.

(Ravindra V.Ghuge, J.)