

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6605 OF 2018

Ajeenkya D. Y. Patil Infra Pvt. Ltd. Through .Petitioner
its Chairman And Managing Director

Vs.

Baban Gena Pathare & ors. .Respondents

Mr. Sanjay Chitale, Advocate, for the Petitioner

CORAM : REVATI MOHITE DERE, J.

DATE : 24.01.2020

P. C.

. Heard learned counsel for the Petitioner.

2. By this Petition, the Petitioner has impugned the order dated 30.01.2018 passed by the learned 16th Jt. C. J. S. D., Pune below Exh. 105 in Special Civil Suit No. 758 of 2009, by which the Petitioner's Application under O. VII, Rule 11(a), (d) r/w 151 of the Code of Civil Procedure (for short "C. P. C."), was rejected.

3. Learned counsel for the Petitioner submits that the learned Judge had failed to consider that the Sale Deed was executed between the Defendant Nos. 2 & 3 and the Petitioner on 11.06.2003. He submits that pursuant to the said Sale Deed, the Petitioner's name was mutated in the Mutation Register, as the owner of the suit land. He submits that

the Defendants at no point of time challenged the mutation entries and instead, filed the said suit in the year 2009. He submits that the learned Judge whilst dismissing the Petitioner's Application under O. VII, Rule 11(a)(d) of the C. P. C. has not considered the said fact.

4. Issue notice to the Respondents, returnable on **06.03.2020**. Hamdast permitted. In addition to Court notice, Advocate for the Petitioner, to serve the Respondents by Advocate's notice and file Affidavit of service before the returnable date. Notice to indicate that an endeavour shall be made to dispose of the Petition finally at the stage of admission, even if none appears for the Respondents. Spare copies to be supplied within two weeks from today in the Registry of this Court, failing which the Petition shall stand dismissed for want of prosecution without further reference to the Court.

5. In the meantime, till the next date, **the proceedings before the trial Court are stayed.**

(REVATI MOHITE DERE, J.)