

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.7036/2016

Shriram Marotrao Lakde and another
..V/s..
Chi. Vaibhav Arvind Lakde and another

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

Court's or Judge's orders

CORAM : RAVINDRA V. GHUGE, J.
DATED : 6.1.2020.

1] None for the petitioner. Despite service of court notice on respondent No.2, who is the biological mother and natural guardian of respondent No.1 (minor), no appearance has been entered either in person or through an Advocate.

2] Rather than dismissing the petition in default, I have gone through the petition paper book. I have perused the grounds for challenge raised in the petition and I have considered the application dated 11.8.2016 which was allowed by the impugned order dated 11.8.2016.

3] The respondents are the original plaintiffs in R.C.S. No.9/2016. An application Exh.11 was moved on 11.8.2016 praying for adding the real daughter of the

sole defendant. It was stated that the sole defendant has transferred the suit property to his daughter and, therefore, she is necessary to be added as defendant No.2. The plaintiff No.1 is a minor son of plaintiff No.2 and is the grand-son of the sole defendant. In order to avoid the share of the plaintiff, the defendant transferred the suit land in favour of his daughter.

4] The trial Court has passed a cryptic order which begins with the words 'application is allowed'. It would be apposite to reproduce the impugned order hereunder:

"Application is allowed. Plaintiff to add the proposed defendant as defendant No.2 and amend the plaint accordingly. The plaintiff to supply the copy of the amended plaint to the original defendant No.1 after adding defendant No.2, suit summons be issued to him."

5] The record also reveals that no say was called for from the original defendant and without granting any opportunity of hearing to the defendant, the trial Court has passed the above order which does not show application of mind and lacks in reasons.

6] In view of the above, this petition is **partly allowed**. The impugned order dated 11.10.2016 stands quashed and set aside and the application Exh. 11 dated 11.8.2016 stand restored in R.C.S. No.9/2016.

7] The trial Court would grant four weeks time to the defendant to submit a written say to the said application and shall pass a reasoned order after considering the oral submissions of the parties.

(RAVINDRA V. GHUGE, J.)

Tambaskar.