

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 12641 OF 2019**

Darshan Kaur Ishar Singh
(Since Deceased) Through Her LRs & Anr.Petitioners

Vs.

Rameshwarnath Vig
(Since Deceased) Through His LRs & Ors.Respondents.

Mr. Gurbachan Singh Ishar Singh, Petitioner No.2 in-person.
Mr.Dharmesh Pandya i/by Ashwin Pandya & Associates for the Respondents.

CORAM : A. S. GADKARI, J.
DATE : 17th AUGUST, 2021.

PC.:-

By the present Petition under Article 227 of the Constitution of India, the Petitioners have impugned part of Order dated 24th September, 2019 passed below Exhibit-71, by the Appellate Bench of Small Causes Court, at Mumbai thereby, rejecting the said Application filed by the Petitioners, for making inquiry as to whether Mrs. Akhila Madhok i.e. Respondent No.7A herein, is the legal heir and representative of deceased Gopal Das Madhok.

2 Heard Mr. Gurbachan Singh, Petitioner No.2-in-person and Mr. Pandya, learned Advocate for the Respondents. Perused record.

3 The record indicates that, on an earlier occasion, the Petitioners had impugned an interlocutory Order by way of Writ Petition

No.10046 of 2010. My predecessor-in-title, by its Order dated 10th February, 2011, while rejecting the said Petition summarily, in sub-para 4 has observed as under:-

“The objection that as to whether the present respondent no.1 has really stepped into the shoes of the decree holder is kept open to be decided at the time of the hearing of the appeal. Therefore, in my view, the impugned order does not affect any substantive right of the petitioners requiring any interference at an interlocutory stage.”

4 The said observation was made on the basis of the submissions made by the learned counsel appearing for the Petitioners herein. As the title of the said property vests with the Respondent No.8 herein, it is for the Respondent No.8 to establish its title in consonance with the observations made by this Court in its Order dated 10th February, 2021. It appears to this Court that, the inquiry as expected by the Petitioner in his Application filed below Exh-71, is not necessary in view of the facts of the present case.

5 The Supreme Court in the case of *Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil*, reported in (2010) 8 SCC 329 has enumerated the principles in the exercise of High Court's jurisdiction under Article 227 of the Constitution of India. It is held that, the High Courts cannot, at the drop of a hat, in exercise of its power under Article 227 of the Constitution, interfere with the Orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court

or tribunal subordinate to it. That, the High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

It is further held that, in exercise of its power of superintendence, the High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words, the jurisdiction has to be very sparingly exercised. That, the power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.

The afore-stated view expressed in the case of *Shalini S. Shetty (Supra)* has been further affirmed by the larger Bench of the Supreme Court in the case of *Radhey Shyam & Anr. Vs. Chhabi Nath and Ors. Reported in (2015) 5 SCC 423.*

6 The Appellate Court, after taking into consideration various aspects, has rightly rejected the said Application filed below Exh.71. I find that, there is no error either in law or on facts committed by the Appellate Court, while rejecting the said Application.

Even otherwise, the present Petition is directed against purely an interlocutory Order and calls for no interference in exercise of an extraordinary jurisdiction of this Court under Article 227 of the Constitution of India.

7 In view thereof, Petition is dismissed.

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

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by SANJIV
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