

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR
WRIT PETITION NO.902 OF 2021

Jagdish S/o Meghajibhai Seth,
Aged about 68 years, Occu: Nil,
R/o "Ram Kunj", Shrawagi Plot,
Akola, Tq. and Distt. Akola.

...PETITIONER

...V E R S U S...

Prashant s/o Laxminarayan Jaiswal,
Aged about 48 years, Occu: Business,
R/o Shrawagi Plot, Near Tower, Umari Road,
Akola, Tq. and Distt. Akola.

...RESPONDENT

Shri D.R. Khapre, Advocate for petitioner.
Shri N.L. Jaiswal, Advocate for respondent.

CORAM:- V. M. DESHPANDE, J.
DATED :- 15th FEBRUARY, 2021.

ORAL JUDGMENT

Though this writ petition is coming for the first time before the Court, Shri N.L. Jaiswal, learned counsel is appearing suo motu for the sole respondent.

(2) Looking to the question involved in this writ petition, in my view, it can be decided at admission stage finally.

(3) **Rule.** Rule is made returnable forthwith. Heard finally by consent of the parties.

(4) Heard Shri Digvijay R. Khapre, learned counsel for petitioner and Shri N.L. Jaiswal, learned counsel for respondent.

(5) The respondent is the original plaintiff and the petitioner is the original defendant. On earlier occasion the petitioner was required to approach this Court by filing Writ Petition No.98 of 2021, since his application below Exhibit – 132 in Small Cause Suit No.9 of 2013 was rejected.

(6) On 19.01.2021, the said writ petition was allowed by giving direction to the learned Trial Court to decide the Small Cause Suit No.9 of 2013 by 10.03.2021.

(7) It is submitted before this Court that as per the direction given by this Court on 19.01.2021, the Superintendent of Property Tax, Municipal Corporation, Akola has appeared along with necessary documents and his evidence is recorded. Thereafter, the matter was fixed for final hearing on 11.02.2021. On the said day an application for adjournment was moved below Exhibit -151 on behalf of the petitioner/defendant seeking 15 days' time, in view of the fact that Advocate Dilip Goenka is tested COVID-19 positive. The learned Judge of the Court below has granted the said application however for only three days on the ground that this Court has directed to decide the suit by 10.03.2021. Hence, this writ petition.

(8) It is not disputed before this Court that counsel for the defendant, who was appearing in the suit was tested COVID-19 positive. The world is suffering from the COVID-19 pandemic. No doubt true that this Court has directed the learned Judge shall decide the Small Cause Suit No.9 of 2013 by 10.03.2021 however while giving that direction this situation was not like the situation as on 11.02.2021. In that view of the matter, I am inclined to interfere with the order dated 11.02.2021.

(9) The writ petition is allowed. The order dated 11.02.2021 passed below Exhibit-151 in Small Cause Suit No.9 of 2013 is hereby quashed and set aside. The application below Exhibit – 151 in Small Cause Suit No.9 of 2013 is hereby allowed. The Small Cause Suit No.9 of 2013 is to be posted on 15.03.2021 for arguments.

(10) Needless to mention, the time limit given by this Court in Small Cause Suit No.98 of 2013 is extended till 09.04.2021.

Rule is made absolute in above terms. No order as to costs.

JUDGE

Wagh