

21.12.2022
SL No.137
Court No.8
(gc)

FMAT 924 of 2014
CAN 1 of 2014 (Old No: CAN 8664 of 2014)

Putul Devi Sonkar & Ors.
Vs.
Sarju Sonkar & Ors.

This matter appeared in the Warning List of 29th November, 2022 with a clear indication that this matter shall be transferred to the Regular Bench on 5th December, 2022. Since then the matter is appearing in the list. The appellants have due notice of the matter. The appellants are not represented.

The appeal is defective. The Stamp Reporter in its report dated 14.08.2014 has notified various defects. In spite of due notice, the appellant did not make any attempt to remove the defects. The impugned order was passed in connection with a petition dated 19th April, 2012 under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure filed by the plaintiff in connection the suit for declaration and injunction. The plaintiff urged before the Trial Court that the defendant Nos.1 and 2 in collusion and conspiracy brought into existence a deed of sale which might have been executed by Imarbati Sonkar and registered in favour of the said defendants when knowing fully well that Imarbati Sonkar due to his prolonged illness was unable to exercise her intelligence and take independent decision to execute any such document. It was further alleged that even if it is assumed that Imarbati Sonkar had executed the said document, the fact remains that she was a benamdar. In

opposing the said application it was alleged that this is a second application for injunction and it may not be maintainable as the issue raised in the injunction application has already been decided by another order and the principle of res judicata applied at different stages in the same proceeding. The learned Trial Court referring to its earlier order dated 14th March, 2011 observed that it was earlier held that the plaintiffs could not make out any prima facie case in their favour and they cannot re-litigate on the self-same issue. On such grounds, the injunction petition was dismissed.

We do not find any reason to interfere with the said order as it was based on sound principles of law. We find that the Trial Court has fixed the suit on 4th July, 2014 for framing of issues. While dismissing the application, the learned Trial Judge shall dispose of the suit as expeditiously as possible preferably within a period of six months from the date of communication of this order without granting any adjournment to either of the parties unless it is unavoidable.

Accordingly, the appeal and the application stand dismissed at the admission stage.

The Office of the Registrar Administration (L&OM) is directed to communicate this order to the learned Trial Judge for information and doing the needful.

(Uday Kumar, J.)

(Soumen Sen, J.)