

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12000 OF 2019

PRAKASHPUR CO OPERATIVE HOUSING MIDDLE CLASS SOCIETY LTD
THROUGH CHAIRMAN
VERSUS
BAPU YASHWANT KAMBLE THROUGH LRS KISHOR BAPU KAMBLE
AND ANOTHER

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Advocate for Petitioner : Mr. Y.V. Kakade h/f. Mr. Niteen V. Gaware

Advocate for Respondent 1A: Mr. P.S. Koshti.

Advocate for Respondent No.2 : Mr. K.J. Suryawanshi.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 01st APRIL, 2022.

PER COURT :

1. Heard learned counsel for the petitioner and respondents for some time.

2. Petitioner's application below Exh.5 came to be rejected by Jt. Civil Judge Senior Division, Ahmednagar on 2.2.2018. The petitioners preferred an appeal under Order 43 Rule 1R of CPC before the learned District Judge, Ahmednagar bearing Misc. Civil Appeal No. 27 of 2018. The learned District Judge, Ahmednagar, by an impugned order dated 9.10.2018, dismissed the appeal with costs, inter-alia, directed the petitioner society to pay costs of the appeal to the

respondents. The petitioners, therefore, have approached this court under its Supervisory jurisdiction.

4. All the parties are ad-idem to set aside the impugned order passed by the courts below, inter-alia, seeking direction to expedite the suit, as well as maintaining status-quo qua the suit property. As such, petition stands disposed of with following directions :-

[i] The impugned order dated 2.2.2018 passed by the learned Civil Judge Senior Division Ahmednagar in RCS No. 22 of 2017 and the order dated 9.10.2018 passed by the learned Ad-hoc District Judge – 5, Ahmednagar are quashed and set aside.

[ii] The matter is remanded back to the trial court.

[iii] Parties shall appear before the trial court on 8th April, 2022 at 11.00 a.m.

[iv] The trial court shall proceed further in accordance with law and shall expedite the suit. The trial court shall not grant unnecessary adjournments to any of the parties.

[v] Parties shall maintain status-quo, as of today, with respect to suit property. There shall be no creation of any third party interest by any of the parties qua the suit property.

[vi] It is made clear that this court has not expressed anything on merits of the case. All the contentions of the parties are kept open.

Writ Petition stands disposed of in aforesaid terms.

(PRITHVIRAJ K. CHAVAN, J.)

grt/-