

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPEAL FROM ORDER NO. 33 OF 2022

ARJUN RAMA SONAWANE
VERSUS
SAKHARAM SHRAWAN SONAWANE AND OTHERS

...
Advocate for Appellant : Mr. A.S. More
Advocate for Respondent Nos.2 and 5 : Mr. V.V. Tarde
....

CORAM : S.G. DIGE, J.
DATE : 15th July, 2022

ORDER :

. Learned Counsel for appellant submits that, respondent Nos.2 and 5 are contesting respondents. Except respondent Nos.2 and 5 other respondents are not contesting respondents and they have added as formal parties. Hence, they be deleted from title clause of the appeal memo.

2. Considering the request of learned Counsel for appellant the names of respondent Nos.1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 13-A, 13-B, 13-C, 13-D, 13-E, 14, 14-A, 14-B, 14-C, 14-D, 15 be deleted from the array of

respondents at the risk of appellant.

3. Learned Counsel for appellant submits that, learned District Judge-2 at Shrigonda, Dist.-Ahmednagar below Exh.33 in Regular Civil Appeal No. 147 of 2019 has passed order rejecting the *interim* relief prayed by appellant. Learned District Judge has not considered evidence on record and erroneously concluded that there is no *prima-facie* case against said order this appeal is filed.

4. It is contention of learned Counsel for respondent Nos.2 and 5 that, suit filed by the appellant is dismissed by the learned Trial Court on merit. Appellant is not concerned with the suit property, only to harass the respondent Nos.2 and 5 the suit for partition was filed. On merit the said suit is dismissed hence, order passed by the District Judge is legal and valid.

5. I have heard both the learned Counsel. The appellant had filed Regular Civil Suit No.132 of 2002 for partition and separate possession against the

respondents. It is contention of the appellant that, suit properties are ancestral properties and appellant is having half share in it. For family arrangement property was given to respondents for cultivation and there is no partition in between appellant and respondents. The suit of the appellant is dismissed by the learned Trial Court. Appellant had preferred appeal against the said judgment and order before the District Judge. Appellant had filed application for *interim* relief. The said application is rejected against which this appeal is preferred.

6. In my view, appellant is claiming share in the suit property, the learned Trial Court has dismissed the suit of appellant. Some part of the land of suit property is acquired for project of Kukadi Canal. The compensation in that regard is deposited before learned Land Acquisition Officer. Due to this dispute the compensation is remained pending with the Land Acquisition Officer. Hence, it is necessary to decide appeal as early as possible, accordingly, I pass the following order :-

ORDER

- a. The order passed by the learned District Judge, Shrigonda below Exh.33 is quashed and set aside.
- b. The learned District Judge is requested to dispose of the pending appeal No.147 of 2019 as early as possible preferably within four (4) months on its own merit.
- c. The appeal is disposed of, accordingly.

(S.G. DIGE, J.)