

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10555 OF 2019

Rajeshwar S/o Prabhakar Botlawar

... Petitioner
(Orig. Defendant)

Versus

Ku. Swati D/o Prabhakar Botlawar & Others

... Respondents
(Resp. No.1/Orig. Plaintiff)

...
Smt. Smita S. Kulkarni, Advocate for the Petitioner
Mr. Vinod P. Patil, Advocate for Respondent No.1
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 29th August, 2022

PER COURT :-

1. Challenge in this petition is to the order passed by the 2nd Joint Civil Judge, Senior Division, Nanded below Exhibit-64 in Special Civil Suit No.5/2018.
2. The respondent no.1/original plaintiff filed suit for partition and separate possession of movable and immovable properties standing in the name of Prabhakar Laxman Botlawar, who is the father of the present petitioner and respondent no.1. A perpetual injunction is also sought in the said suit.
3. The petitioner/original defendant resisted the suit by filing written statement and contending that, the properties claimed by

respondent were self acquired properties of father and he has bequeathed them by way of will deed. The suit is sub-judice before the Trial Court.

4. The respondent no.1/original plaintiff filed application (Exhibit-64), contending that the petitioner being nominee of father has received insurance amount of Rs.12,30,375/-. The respondent no.1 has half share in the said amount as legal heir. She, therefore, sought a direction that the petitioner be directed to deposit half amount Rs.12,30,375/- in the Trial Court. No say was filed on behalf of the petitioner to the said application. The application is allowed by the Trial Court by relying on the decision of the Apex Court in **Shipra Sengupta Vs. Mridul Sengupta** reported in **2009 (6) ALL MR 486**. The petitioner is aggrieved by this order.

5. Having heard the learned Advocate for the petitioner, learned Advocate for respondent no.1 and having considered the documents on record, this Court is of the considered view that at this stage, it is not necessary to interfere in the impugned order.

6. Admittedly, this Court has directed the Trial Court to expedite the trial and conclude the same within one year from 11-07-2022.

7. It is also a matter of record that the Trial Court has in other proceedings granted status-quo in respect of bank accounts. In the earlier round of litigation, one of the order in the present suit was

challenged in Writ Petition No.8890/2019, while deciding the same, this Court has observed;

"4. It is a matter of record that respondent No.1 has filed suit for partition, wherein in Schedule-A description of movable properties is given. As per the said description fixed deposit receipts and total amount in the saving account in the name of the father and brother i.e. petitioner stands at Rs.83,26,858/-. Schedule-B pertains to the immovable property. The valuation of which is stated to be Rs.87,22,902/-".

8. Taking into consideration the fact that the Trial Court has directed to maintain status-quo in respect of bank accounts, wherein an amount of Rs.83,26,858/- is pending, in case, the Trial Court allows the suit filed by respondent no.1, 50% amount of insurance received by the petitioner can be adjusted from the amount of Rs.83,26,858/-.

9. In that view of the matter, the impugned order need not be interfered with at this stage. The writ petition is, therefore, disposed of, by observing that, in case, the suit filed by respondent no.1 is allowed, 50% amount of insurance, to which she is entitled, be paid to her from amount of Rs.83,26,858/-.

10. The writ petition is disposed of accordingly.

[NITIN B. SURYAWANSHI, J.]