

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.9881 OF 2013**

SACHIN VITTHALRAO SHIRSATH

..PETITIONER

VERSUS

I.D.B.I. BANK LTD.

..RESPONDENT

...

Mr. Abhishek Kulkarni, Advocate for the Petitioner.
Mr. A. S. Pathak, Advocate for sole Respondent.

...

CORAM : S. V. GANGAPURWALA, J.

DATED : 14th JANUARY, 2022.

PER COURT:-

1. The learned counsel for the petitioner submits that, the respondent/original plaintiff filed Suit against the dead person. The Court on its own on 20.07.2013 observed that, the Suit is filed against dead person and the plaintiff is required to satisfy whether the Suit is within the limitation. The recitals of the plaint does not reflect satisfaction of paragraph no.8(xii) of the Civil Manual.

2. The learned counsel for petitioner submits that, the petitioner on the same line filed application Exhibit-37 that, the petitioner's application Exhibit-37 and application Exhibit-31 be decided first. The Trial Court instead of deciding the applications of the petitioner earlier at point of time directed that, applications be decided together.

3. The learned counsel submits that, if the application of the petitioner is decided first, then the plaint has to be rejected. In that event, nothing would survive and Civil Court had also raised a same objection while passing order below Exhibit-19 on 20.07.2013.

4. I have considered the submissions and also gone through the order passed.

5. The Court has observed that, all applications pending till date shall be decided at once and advocates would argue on all applications that are pending till date.

6. In my opinion, the Court has adopted the correct approach. The Court has observed that it shall decide the applications of the petitioner and the respondent simultaneously instead of deciding one before the other.

7. With the aforesaid observations, writ petition is disposed of. No costs.

(S. V. GANGAPURWALA)
JUDGE