

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3577 OF 2022

Shri. Sadashiv Babasaheb Pawar ..Petitioner
Versus
Smt. Shantabai Dashrath Shitole and Ors. ..Respondents

Mr. Vilas B. Tapkir, for the Petitioner.
Mr. Kamalesh Mali, for the Respondent Nos.6 & 7.

CORAM : NITIN W. SAMBRE, J.

DATE : 4th MAY, 2022

PC.

1. After having heard respective counsels, Mr. Vilas Tapkir, learned counsel for the petitioner is justified in claiming that while setting aside “No Cross” order dated 24th October, 2019 at the behest of the defendant Nos.6 and 7, the Court has not considered absence of reasons for such prayer in the application Exh.162A.

2. However, fact remains that the impugned order is already acted upon to the extent of deposit of cost of Rs.5,000/-.

3. I am informed that the defendant Nos.1 to 4 have transferred the property in favour of defendant No.5, from whom defendant Nos.6 and 7 have purchased the same.

4. In case, if the suit is decreed, same will have direct

impact and bearing on the defendant Nos.6 and 7, perhaps said appears to be the reasons for showing indulgence by the Court below.

5. That being so, this Court refrains from causing interference in the extraordinary jurisdiction of this Court. However, the cost of Rs.5,000/- is enhanced by another Rs.25,000/- (excluding Rs.5,000/- already deposited). The said cost to be deposited in the Trial Court on or before 20th June, 2022 i.e. next date of hearing.

6. The petition as such stands disposed of in above terms.

7. Needless to clarify that the petitioner is entitled to withdraw the cost.

8. If the cost is not deposited, the Court below shall proceed ahead with the final hearing of the suit, as if the order of “No Cross” dated 24th October, 2019 is still holding the field and is governing the pending proceedings.

[NITIN W. SAMBRE, J.]