

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

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WRIT PETITION 7411 OF 2021

Sambhaji Dhondiram Mane and Anr. ... Petitioners
Versus
Bhagwan Bira Sargar and Ors. ... Respondents

Mr. Prajakt M. Arjunwadkar for the Petitioners.
Mr. S. S. Patwardhan a/w Bhooshan Mandlik i/by Tanvi G. Tapkire for
the Respondents 1 and 2.
Mr. A. P. Vanarse, AGP for the State-Respondents 3 and 5.

CORAM: ROHIT B. DEO, J.
DATE : 6th JULY, 2022

P.C. :-

. This petition assails an injunctive order in Misc. Civil Appeal 167 of 2020 which the plaintiffs in Special Civil Suit 144 of 2010 preferred challenging the order of the Trial Court whereby injunctive relief was refused.

2. The operative part of the Appellate Court order reads thus :-

“ O R D E R :-

- 1] Misc. Civil Appeal No. 167/2020 is partly allowed.
- 2] The order on Exh 91 passed by Civil Judge Senior Division, Sangli in Spl.C.S.No. 144/2010 dated 12/11/2020 is set-aside.
- 3] Exh 91 is partly allowed. Both parties are directed to maintain status-quo in respect of the suit property i.e. 1 and 9 pai share in block No.1597 its boundaries : towards east Land belonging to Subrao Haibati Sargar in the gat Number, towards south : land of Sambhaji Dhondiram Mane in the gat number, towards : East Kargani-Banpuri road and towards north : land of Shivaji Dhondiram in the gat number.
- 4] It is clarified that defendant No.1 will be at liberty to excavate

as per the order given by the Collector excluding the area of suit property as per Law.

5] The suit is expedited. The plaintiffs/appellants shall not seek any single adjournment in the suit and shall complete all the formalities in the suit within two months from today for bringing the suit for the stage of hearing.

6] Ld.Trial court is requested to complete the hearing within six months from the date of filing of affidavit of examination-in- chief by the plaintiff.

7] The plaintiffs shall not seek any adjournment in the suit till its decision and any single default by the plaintiffs in observing these conditions will amount to dismissal of this appeal and restoration of the order of the Ld.Trial Court below Exh 91.

8] Record and Proceeding, if any, be sent to the Trial Court.

9] Inform the trial Court accordingly.”

3. It is common ground that due to certain reasons *inter-alia* the transfer of the suit to other Court, the time scheduled could not be adhered.

4. Both the parties agree that it would be in the interest of the parties if the Trial Court is directed to dispose of the suit finally within ninety days from the next date of hearing.

5. In my considered view, the submission of the parties is reasonable considering the fact that the Appellate Court had directed that the suit be decided within six months from the date of filing of the affidavit of examination-in-chief, which affidavit is already filed.

6. The petition is disposed of with a request to the learned Trial Court to dispose of the suit within ninety days from the next date of hearing. It is made clear that no adjournment shall be granted unless just and sufficient cause is made out and in any event the hearing shall not be adjourned beyond seven days at a time. If the suit is not decided

within the ninety days from the next date of hearing, the defendants shall be at liberty to approach this Court for appropriate order/relief.

7. The authenticated copy of this order be acted upon.

[ROHIT B. DEO, J.]