

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1673 OF 2020

Balaso Jinappa Buksheth

.. Petitioner

Versus

Manoj Mohan Bahirsheth

.. Respondent

.....

- Mr. Drupad S. Patil for Petitioner
- Mr. Surel S. Shah for Respondent

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 01, 2023

P.C.:

1. Heard Mr. Patil, learned Advocate for Petitioner and Mr. Shah, learned Advocate for Respondent.

2. Parties have tendered Minutes of Order dated 01.02.2023 which are signed by the learned Advocates for both the parties. The Minutes of Order is taken on record and marked 'X' for identification. The undertaking recorded in Minutes of Order are accepted as undertaking given to this Court.

3. The scanned copy of the Minutes of Order are reproduced below for convenience.:-

X1 Tended in Court
11/1/2023

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1673 OF 2020

DISTRICT: KOLHAPUR

Shri. Balaso Jinappa Buksheth, .. Petitioner

Versus

Shri Manoj Mohan Bahirsheth, .. Respondent

MINUTES OF ORDER

**CORAM:- Hon'ble Mr. Justice
Milind Jadhav.**

Date- 1.2.2023.

1. By consent of parties, impugned orders dated 1.8.2019 and 8.1.2020 passed by Ld. Judge of Trial Court on Applications being Exhibit 46 and 53 filed in Special Civil Suit No. 263 of 2018 are set aside. The order dated 23.1.2019 passed by Ld. Judge of Trial Court on Exh. 1 thereby attaching land bearing Gat No. 605 is also set aside subject to following terms;
2. Petitioner shall be at liberty to ^{sell} ~~sale~~ land bearing Gat No. 605, situated at Kasaba Bawada, Tal- Karveer, District- Kolhapur, subject to following conditions-

- i) Within 15 days of sale deed Petitioner undertakes to this Honble Court that he shall submit in Ld. Trial Court a receipt of Nationalized Bank of fixed deposit of Rs. 45 lacs drawn in the name of Petitioner. The petitioner undertakes to this Hon'ble Court that the fixed deposit shall be renewed timely and will not be liquidated at any cost till the suit is decided and in the manner provided hereinafter .
- ii) The Petitioner undertakes to this Hon'ble Court that the aforementioned fixed deposit receipt shall be submitted as security towards the claim of Respondent in the pending suit. In case suit is decreed, then, the said security shall be utilised by the Respondent to the extent of decretal amount by liquidating the fixed deposit amount along with accrued interest to which the Petitioner will have no objection and for which purpose he undertakes to execute necessary documents. The liquidation of fixed deposit receipt will be for satisfaction of entire

or partial decree. If Suit is dismissed, then, Petitioner shall be at liberty to liquidate the said fixed deposit after 14 days of dismissal of suit .

- iii) Sale of land bearing Gat No. 605, shall get confirmed only after submission of above referred fixed deposit receipt in Trial Court. The Petitioner undertakes to this Honble court that he shall incorporate this clause in the deed which will be executed by him .
- iv) Till the land mentioned in para 2 herein above is sold on the terms mentioned herein above, the Petitioner undertakes to this Honble court not to create any third party rights of whatsoever nature .
- v) If the land is not sold for any reason whatsoever or if the petitioner contravenes any of the conditions mentioned herein, the attachment order passed below ^{Exh-1 dt. 23/1/2019 and} Exhibit 46 will automatically revive without reference to the court .

- vi) Till the execution and registration of Sale Deed by Petitioner in respect of said land bearing Gat No. 605 in favour of prospective purchaser, the Order of attachment dated 23.1.2019 passed by Ld. Judge of Trial Court shall remain in force. By consent of parties, trial of Special Civil Suit No. 263 of 2018 is expedited. Ld. Judge of Trial Court shall make an endeavour to decide the said suit within 6 months.

3. Petition is disposed in above terms.



Adv. Drupad Patil
for Petitioner.



Adv. SUREKHA SHAH

for Respondent

4. It is directed that Special Civil Suit No.263 of 2018 be decided as expeditiously as possible and within a period of six months from today.

5. In view of above, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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by AJAY
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