

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 5171 OF 2022**

Gajanan Kacharu Meher and Ors.

.. Petitioners

Versus

Goma Pandu Tamhane and Ors.

.. Respondents

-
- Mr. Vijay V. Nene for Petitioners
 - Mr. Rahul S. Kadam for Respondents
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CORAM : MILIND N. JADHAV, J.**DATE : JANUARY 16, 2023.****P.C.:**

1. Heard Mr. Nene, learned Advocate for Petitioners and Mr. Kadam, learned Advocate for Respondents for some time. Perused the record and pleadings.

2. The challenge in the present Writ Petition is to the order dated 28.08.2021 passed by the District Judge-1, Kalyan in M.C.A. No. 1 of 2021 partly allowing the order dated 04.12.2020 passed below Exhibit-5 in R.C.S. No. 273 of 2013 before the Trial Court.

3. Admittedly, Mr. Nene would submit that the principal Suit No. 273 of 2013 has been filed before the learned Trial Court by Plaintiffs (Respondent Nos. 1 to 5 herein) seeking cancellation of the registered Sale Deed in favour of the Petitioners alongwith Power of Attorney.

4. Mr. Kadam contends that the Plaintiffs have submitted before the

Trial Court that the Power of Attorney was never in existence and in view thereof there would not be any authority to execute the registered sale deed.

5. Be that as it may, submissions made by the respective learned Advocates raise several disputed questions of facts. Admittedly, the suit has remained pending for a period of almost 10 years and all parties would be interested in the adjudication and outcome of the suit.

6. Considering that the suit property has already been acquired for the Mumbai Baroda Express Way and compensation of Rs.2,16,22,746/- has been awarded as per Award dated 10.09.2018, the outcome of the suit would ultimately determine as to how the awarded amount in respect of the suit property would have to be apportioned and/ or given either to the Petitioners (claimants) or the Respondents.

7. Considering that the suit is pending since long, it would be in the interest of the justice if the suit is expeditiously decided by the learned Trial Court.

8. In view of the above, learned Trial Court is requested to determine the pending Suit No. 273 of 2013 within a period of 6 months from today. The learned Trial Court shall not grant adjournment to either of the parties unless the same is absolutely necessary. Needless to state that none of the observations is made in

the order dated 28.08.2021 and order dated 04.12.2020 shall influence the decision of the learned Trial Court at the time of the final hearing / arguments in the aforesaid suit.

9. Both the parties shall appear before the learned Trial Court alongwith an authenticated copy of this order on 19.01.2023 at 12:00 noon to determine the schedule of hearing according to convenience of the learned Trial Court.

10. With the above directions, Writ Petition disposed.

[MILIND N. JADHAV, J.]

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