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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5406 OF 2022

Satish Kisan Punde

.. Petitioner

Versus

Fulabai Baban Punde and Ors.

.. Respondents

-
- Mr. Prabhakar M. Jadhav, Advocate for Petitioner.
 - Mr. Sachin Deokar a/w. Advocate for Respondent Nos.1 to 3.
 - Mr. Shekhar Mane, Advocate for Respondent Nos.4 to 8.
-

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 22, 2023.

P.C.:

1. Heard Mr. Jadhav, learned Advocate for the Petitioner and Mr. Deokar, learned Advocate for Respondent Nos.1 to 3.

2. Perused the impugned order below Exhibit-36 in Regular Civil Suit No.229 of 2020 passed by the learned Trial Court. The Application filed by the Plaintiff seeks a direction to the Sugarcane Karkhana to stay the release of payment of sugarcane which was taken away by the Karkhana. The proceedings in the substantive suit pertain to cancellation of relinquishment deed as also partition, declaration and perpetual injunction of the ancestral properties which are claimed by Plaintiffs and Defendant Nos.1 and 2 (i.e. Respondent Nos.1 to 3 and Respondent Nos.4 and 5), which includes claim to the monies to

be paid by the Karkhana in respect of sugarcane.

3. The limited question before the learned Trial Court in Application below Exhibit-36 was with respect to the payment to be arrived from the Sugarcane Karkhana and its appropriation. The Plaintiff objected on the ground that in view of the relinquishment deed and the Plaintiff having claimed 1/5 share cannot be granted. Without having a trial with respect to the suit proceedings, the learned Trial Court *prima facie* came to the conclusion that it could not decide as to who was in actual possession of the agricultural land from where the sugarcane was taken away by the Karkhana, and also who had cultivated the same. In view thereof, the learned Trial Court directed the Sugarcane Karkhana to withhold the payment and hence Petitioner (Defendant No.4) being aggrieved has approached this Court by the present Writ Petition.

4. After hearing the learned Advocates for some time and perusing the record, Mr. Deokar has made a fair suggestion to the Court considering the dispute involved in the present proceedings. He urged the Court to direct that the said payment be deposited by the concerned Sugarcane Karkhana in the Trial Court and the said deposit shall be subject to the final outcome of the suit proceedings. Mr. Jadhav, learned Advocate for the Petitioner (Defendant No.4) also agrees to the same.

5. Hence, the following order:-

- (i) The Vyankatesh Sugar Factory, Jategaon, Taluka Shirur is directed to deposit the sugarcane payment within a period of four weeks from today before the learned Trial Court in Regular Civil Suit No.229 of 2020;
- (ii) The learned Trial Court is directed to dispose of pending Regular Civil Suit No.229 of 2020 within a period of 8 months from today;
- (iii) The learned Trial Court is directed not to grant unnecessary adjournments to the parties unless absolutely necessary;
- (iv) The learned Trial Court shall not be influenced by any observations and findings made in the impugned order dated 22.02.2022;
- (v) The impugned order dated 22.02.2022 stands modified to the above extent.

6. Mr. Jadhav would submit that Petitioner (Defendant No.4) has also filed Application under Order VII Rule 11 of the Civil Procedure Code, 1908 before the learned Trial Court. Considering the above directions, the learned Trial Court shall dispose of the same strictly in accordance with law.

7. With the above directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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