

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9926 OF 2013

Kisanrao Ravaba Gaikwad (Rite).

...Petitioner.

Versus

Kondiba Ganapati Dhamal.

..Respondent.

Mr. Shivaji Masal for the petitioner.

Mr. Ganesh Misal, Mr. Vishal Kale i/b J. D. Khairnar for the respondents.

Coram : Sharmila U. Deshmukh, J.

Date : August 2, 2023.

P. C. :

1. Heard.
2. A very limited controversy has been raised in the present petition that without hearing the original plaintiff, on an application filed by the defendant, for exhibiting the exchange-deed, the trial Court has exhibited the document as Exhibit-17/3.
3. It is not necessary for this Court to go into the merits of the petition for the reason that the only contention raised by learned counsel appearing for the petitioner is that the petitioner be heard on the application at Exhibit 39 filed by the defendant seeking exhibiting of the document. It is not disputed that by previous order the exchange-deed was impounded and in that respect the plaintiff was

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heard when the order was passed. The grievance of the petitioner herein is that subsequently while exhibiting the document, the plaintiff was not heard.

4. Considering that the admitted position is that the impugned order was passed without hearing the plaintiff, in the interest of justice, the impugned order dated 9th October 2013 is hereby quashed and set aside and the application below Exhibit 39 is to be considered afresh by the trial Court after giving an opportunity to the petitioner to file his reply and be heard in the matter.

5. By order dated 24th October 2013, there was an ad-interim relief which was granted by this Court by reason of which the proceedings of the suit of 2008 was stayed. Parties to appear before the trial Court on 10th August 2023. The reply to application below Exhibit 39 to be filed on or before 18th August 2023. The application below Exhibit-39 to be heard by the trial Court as expeditiously as possible and be decided in any event on or before 25th August 2023.

6. Considering that the suit is of the year 2008, the trial Court is requested to decide the same as expeditiously as possible and in any event within a period of one year from today.

7. Writ petition stands allowed in above terms.

[Sharmila U. Deshmukh, J.]