



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1142 OF 2022

Smt. Shobha W/o Yashwant Joshi .Vs. Shri Puranchand S/o Suryakant Godbole and
another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri H.I. Kothari, Advocate for petitioner.

Shri C.B. Dharmadhikari, Advocate for respondent No.1.

CORAM : ANIL S. KILOR, J.

DATED : 03/10/2023

1. On the application filed by the defendants under Order XVIII, Rule 17 of the Code of Civil Procedure (C.P.C.) for re-examination of plaintiff, the learned trial Court passed the order on 18.08.2021, which is impugned in the present writ petition.

2. The relevant portion of the said order, which reads thus:

“2. This is an application filed U/o.18, R-17 for re-examination of plaintiff. The defendant came with the defence that, plaintiff has not added all joint family properties in the suit for partition. Further, he did not describe the said properties in his defence statement. The defendant lead oral evidence of DW.1 and DW.2 and brought on record the evidence regarding the Fixed Deposit and Saving Deposit. Evidence of defendant is neither concluded nor he filed pursis that information received as regards property from oral evidence of DW.1 and DW.2 is sufficient to constitute his defence in such circumstances, it is just & necessary to direct the defendant whether his defence is restricted to the extent of evidence led by him till today or he is also having other claims.”

3. It is evident from the above referred portion of the impugned order that the Court has not yet decided finally the application Exh.147, filed under Order XVIII, Rule 17 of the C.P.C. Therefore, the present petition is premature. Accordingly, the writ petition is **dismissed**.

4. At this stage, the learned counsel for the petitioner makes a prayer for direction to the learned trial Court to expedite the trial as the suit is pending since 2011.

5. Considering the fact that, the suit is pending from last 12 years, the learned trial Court is directed to decide the same expeditiously.

JUDGE