



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO 11220 OF 2023

Satish @ Shantappa s/o Manmnthappa

Chikrale

.. Petitioner

versus

Trimbakappa Rachappa Chikrale & others

.. Respondents

Mr. A. I. Deshmukh, Advocate holding for Mr. V. T. Patil, Advocate for the Petitioner.

Mr. A. S. Shelke, advocate for Respondent No. 1.

CORAM : R. M. JOSHI, J.

DATE : 20th JULY, 2024.

PER COURT :

1. Petitioner who is Defendant No. 1 in Regular Civil Suit No. 373/2016, being aggrieved by order passed below Exhibit 67 as preferred this Petition.

2. Record indicates that Defendant No. 1 was granted sufficient time to lead his evidence but inspite of the same, he failed to avail said opportunities. Learned Trial Court, therefore, closed his evidence.

3. Learned counsel for Petitioner prays that a final chance and opportunity be given to this Defendant and by setting aside the

impugned order, he be permitted to lead evidence. Learned counsel for Petitioner makes a statement on instructions that the Defendant would examine himself as well as one of the vendors of the sale-deed dated 21.11.2013 and one attesting witness to the said document and entire evidence would be completed within one month. Further, a statement is made on instructions that presence of witnesses would be secured before the Trial Court by Defendant himself without seeking assistance of the Court.

4. Learned counsel for Respondents/Plaintiffs opposed the said contention by pointing out number of opportunities given to this Defendant to lead evidence. It is his submission that the suit is for declaration of sale-deed to be invalid and not binding on the Plaintiffs and granting of indefinite opportunities to the Defendant would cause prejudice to the Plaintiffs.

5. Since the statement is made before this Court in instructions on behalf of Defendant No. 1 that he would examine himself, one of the vendors of the sale-deed and a witness to the said document and that the entire evidence would be completed within a period of one month, this Court is inclined to accept said request, in

the interest of justice. However, considering inconvenience caused to Plaintiff, subject to payment of cost of Rs. 10,000/- to the Plaintiffs, order passed below Exhibit 67 in Regular Civil Suit No. 373/2016 is set aside.

6. At this stage, learned counsel for Petitioner makes a statement that the next date of hearing before the Trial Court is 30.07.2024 and Defendant No. 1 would not only remain present but also will keep the remaining two witnesses present before the court on that day. Trial Court, if possible, to record evidence of these three witnesses on the same day and if it is not possible to do so, their evidence be recorded in any case within a period of one month. In the event for whatsoever reason if the Defendant No. 1 or witnesses fail to remain present before the Court, the evidence of Defendant No. 1 shall stand closed after one month. Since the suit is pending since 2010, the Trial Court is directed to dispose of the said suit expeditiously and in any case within a period of six months.

(R. M. JOSHI)
Judge

dyb