



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

936 WRIT PETITION NO. 11333 OF 2023

Laxman Vaman Mule & anotherPetitioners

VERSUS

Gayabai Vaman Mule & othersRespondents

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Ms. R. V. Sundale, Advocate for the Petitioners.

Mr. Ravindra Wankhade, Advocate holding for Mr. Arjun Lukhe,
Advocate for Respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 3rd JULY, 2024.

PER COURT :

1. By consent of both sides, heard finally at admission stage.

2. Petitioners are Plaintiffs in Regular Civil Suit No. 172/2014 which came to be filed with averments that the suit properties are ancestral properties and partition is sought between Plaintiffs and Defendants. Defendants appeared in the said suit and filed written statement claiming that the respective properties possessed by them are their self-acquired properties. Defendants independently filed two suits bearing Regular Civil Suit Nos. 174/2014 and 175/2014 wherein it is claimed that the suit

properties therein are their self-acquired properties and on the basis of said averment injunction is sought against Defendants i.e. Plaintiffs in Regular Civil Suit No. 172/2014. In the light of these facts, an application was moved by Plaintiffs in Regular Civil Suit No. 172/2014 for deciding all these suits together. Learned Trial Court has rejected said application with observation that cause of action for all three suits is different and that independent evidence is required to be adduced.

3. This Court does not agree with the said finding for the reason that it is a case of Plaintiffs in Regular Civil Suit No. 172/2014 that the suit properties are ancestral properties and the said contention is denied by Defendants with a claim that the suit properties are self-acquired properties. No different stand is raised by both sides in Regular Civil Suit Nos. 174/2014 and 175/2014. Merely because Defendants in Regular Civil Suit No. 172/2014 filed different suits seeking injunction in respect of the properties covered by Regular Civil Suit No. 172/2014, it cannot be said that those suits have no nexus to the subject matter of Regular Civil Suit No. 172/2014 and its outcome.

4. In any case, Plaintiffs in Regular Civil Suit No. 172/2014 will have to prove that the suit properties are ancestral properties and Defendants therein will have to prove that they are self-acquired properties. Thus, the issues involved in all these three suits are interconnected and they cannot be decided with independent evidence. Thus, there is no justification in rejection of the request made by Plaintiffs in Regular Civil Suit No. 172/2014.

5. As a result of above discussion, impugned order is set aside. Trial Court is directed to decide the three suits with common evidence and by common judgment. Petition stands allowed in above terms.

(R. M. JOSHI)
Judge

dyb