

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7865 OF 2024

~~Hirabai Anandrao Phalake~~

(since deceased) through Legal Heir and LR

Lata Arun Patil

.. Petitioner

Versus

Suresh Anandrao Phalake & Ors.

.. Respondents

-
- Mr. Ravi Kadam for Petitioner

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CORAM : MILIND N. JADHAV, J.

DATE : JUNE 24, 2024

P. C.:

1. Heard Mr. Kadam, learned Advocate for Petitioner
2. Present Writ Petition takes exception to the judgment & order dated 03.02.2024 passed by learned District Judge in Misc. Civil Appeal No. 60 of 2022. By the said judgment, the order dated 06.12.2021 passed by the learned Trial Court which allowed the Application below Exh. 99 in RCS No. 132/2024. Learned District Court after considering *prima facie* evidence pertaining to revenue entries, partition effected in the year 1977 and Will dated 05.11.2016 opined that order dated 06.12.2021 passed by the learned Trial Court rejecting the injunction Application filed by Defendants was not correctly passed and it was therefore quashed and set aside. During the course of hearing before the learned District Court, Defendant No.

1 filed a pursis which is appended at Exh. H, page No. 56 of the Petition wherein Defendant No.1 has stated that until the final disposal of the Suit proceedings he shall not alienate and / or transfer the Suit property. Cognizance of the same has also been taken by the learned District Court while passing the impugned order dated 03.02.2024 in paragraph No. 14 of its order wherein the learned District Court records that *“From the pursis Exh. 37 also, the intention of the defendants is not of alienating the properties of their share till conclusion of the suit”*. In that view of the matter and after recording the other facts, learned District Court came to the conclusion that disposal of RCS No. 132/2004 was necessary and therefore it directed expeditious disposal of the Suit within a period of four months.

3. I am informed that witness action of the Defendants is at present going on before the learned Trial Court. *Prima facie*, I do not find any reason to interfere with the impugned order dated 03.02.2024 passed by the learned District Court, save and except to further direct that the Suit proceedings before the learned Trial Court shall be disposed of as expeditiously as possible as determined by the learned District Court within a period of four months from today. Parties are directed to cooperate with the learned Trial Court and shall not seek any adjournments unless they are utmost necessary due to any emergency or exigency.

4. Needless to state that the undertaking given by Defendant No.1 by filing a pursis below Exh. 37 shall be abided by the Defendant until disposal of the suit proceedings.
5. All contentions of the parties are expressly kept open for determination of the suit proceedings.
6. This Court has not expressed any opinion on merits of the matter while sustaining the order dated 03.02.2024.
7. With the above directions, Writ Petition is disposed.

Amberkar

[MILIND N. JADHAV, J.]

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by RAVINDRA
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