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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO. 6 OF 2023

Namdev Akoba Shendge and Ors.

.. Applicants

Versus

Laxmi Vitthal Shendge and Ors.

.. Respondents

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- Ms. Divya Bhatia a/w. Mr. Saurabh Ghag, Mr. Siddharth Jadhav and Mr. Ganesh Gilbile, Advocates for Applicants.
 - Mr. Harekrishna Mishra a/w. Ms. Poonam Devkar, Advocates for Respondents.

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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 13, 2024.

P.C.:

1. Heard Ms. Bhatia, learned Advocate for Applicants and Mr. Mishra, learned Advocate for Respondents.

2. At the outset, Ms. Bhatia, learned Advocate draws my attention to the order dated 26.10.2023 passed by this Court (Coram: Abhay Ahuja, J.), my predecessor who has heard parties on the issue of jurisdiction since the Suit properties happened to be divided into two categories, one category of properties being situated in Vaduj, Satara whereas second category of properties being situated in Turbhe, Navi Mumbai, District Thane.

3. On perusing the said order, paragraph Nos.4 and 5 of the said order clearly gives the imprimatur that the only properties which

now remain to be the subject matter of partition in the Suit proceedings are the immovable properties in the first category, namely properties situated at Vaduj, Satara. In so far as the properties at Turbhe are concerned, since those properties are all sold, claim will be in respect of apportionment of the proceeds in the Partition Suit. In that view of the matter, the relief prayed for in the MCA cannot survive once the issue of jurisdiction is decided by Court. Hence, MCA is dismissed.

4. However, learned Advocate for Applicants would submit that since the purchasers of the properties situated in Turbhe, Navi Mumbai, District Thane are required to be impleaded as proper and necessary parties to the Suit, it would be convenient for them and further looking at the age of Applicants, this Court be pleased to allow the MCA. Considering that the jurisdictional issue having already been decided by this Court by the aforesaid order, the contention of the Applicants seeking impleadment of the purchasers of the Turbhe properties cannot be countenanced as a ground for allowing the MCA.

5. Issue of impleadment of purchasers is not relevant before me. Applicants shall be entitled to file appropriate Application for impleadment as available to them in law before the learned Trial Court and if any such Application is filed, the same shall be determined on its own merits in accordance with law. That apart, Civil Suit between the

parties is filed in the year 2018 and therefore the learned Advocate for Applicants makes a request to the Court that the same be expedited. Mr. Mishra, learned Advocate for Respondents also urges the Court to expedite the Suit and supports the Application made on behalf of Applicants. The request of both the learned Advocates deserves to be granted in the interest of justice.

6. Learned Trial Court is directed by this Court to decide Special Civil Suit No.12 of 2018 as expeditiously as possible and in any event within a period of six months from today.

7. All contentions of the parties are expressly kept open.

8. Needless to state that considering the exigency expressed on behalf of the Applicants who are the old ages by the learned Advocate for the Applicants, their presence shall stand dispensed with before the learned Trial Court, but they shall appear through VC, if so required.

9. With the above directions, MCA is dismissed.

[MILIND N. JADHAV, J.]

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signed by AJAY
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