

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5221 OF 2024

Vinod Suresh Pavashe .. Petitioner
Versus
Amira Mohammad Afsar Irani .. Respondent

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- Ms. R.M. Shaikh, Advocate for Petitioner.
 - Ms. S.M. Pagare, Advocate for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 19, 2024.

P.C.:

1. Heard Ms. Shaikh, learned Advocate for Petitioner and Ms. Pagare, learned Advocate for Respondent.

2. The present Writ Petition is numbered as Civil Writ Petition No.5221 of 2024. It is given a final number. The stamp number was Writ Petition (St) No.6952 of 2024. The prayers in the present Writ Petition are as follows:-

- “(a) It be kindly declared the plaintiff that he is the legal owner of the suit property,*
- (b) A permanent injunction restraining the defendants from alienating the said property or dealing therewith in any manner by themselves or through their agents, servants or family members be granted,*
- (c) The plaintiff be paid the cost of the suit from the defendants,*
- (d) Any other orders in the interest of justice be kindly passed.”*

3. From the above, it is clear that this is not a Writ Petition, but it is a plaint which has been filed by the parties. This cannot be a typographical mistake, because when the entire body of the so called 'Writ Petition' is seen, save and except that the parties are nomenclatured as Petitioner and Respondent, in the entire body of the Writ Petition, reference to the parties is as Plaintiff and Defendant. This Court is aghast with the Registry of this Court. It is seen that neither the reliefs prayed for in the alleged Writ Petition are seen by the Registry nor the Registry has taken the trouble to go through the so called alleged 'Writ Petition' where reference to the parties is as Plaintiff and Defendant.

4. Most importantly the annexures to the Writ Petition are also not seen as to whether they entitle filing of the 'Writ Petition'.

5. Annexure at Exhibit "A" between page Nos.11 to 15 is an Agreement between the parties which is dated 10.01.1994. Annexure at Exhibit "B" incidentally is a copy of the order dated 06.04.2021 passed by the 2nd Joint, Civil Judge, Junior Division, Vadgaon Maval. On reading of this order, *prima facie*, it appears that the Plaintiff had filed Regular Civil Suit No.33 of 2020 in the Trial Court which has been determined and partly decreed by the Trial Court. The said order decreeing the Suit by the Trial Court is an appealable order and can be challenged before the District Court. Without doing so, the present

Writ Petition is filed which is nomenclatured in the nature of Suit
plaint without even maintaining challenge to that order.

6. I have impressed upon both the learned Advocates that the
form and manner in which the present Writ Petition has been
numbered and reliefs prayed for therein is not proper. They have also
gone through the reliefs and also the essence of the order dated
06.04.2021 passed by the learned Trial Court in Regular Civil Suit
No.33 of 2020.

7. No orders can be passed in such a Writ Petition.

8. The grounds in the Writ Petition are also in the nature of
grounds in the Suit plaint. The reliefs do not entitle such a Writ Petition
to be maintained in this Court.

9. At the request of both the learned Advocates, I am allowing
the Petitioner to withdraw the present Writ Petition.

10. Needless to state that rights of the Writ Petitioner to file an
appropriate Appeal against the order, if he so desires, are expressly
kept open strictly in accordance with law.

11. The officer who is concerned with giving the final number to
the present Writ Petition is directed to appear before this Court on 22nd
April, 2024. Copy of this order shall be placed immediately before the
Registrar (Judicial – II), High Court of Bombay today itself for

compliance.

12. Concerned officer shall explain to the Court as to why such a Writ Petition has been numbered without considering the body of the Writ Petition, reliefs prayed for by the Petitioner as also the exhibits in the Writ Petition. The written explanation of the concerned officer shall be placed before this Court on Monday i.e. 22nd April, 2024.

13. Stand over to **22nd April, 2024.**

14. Writ Petition stands disposed.

[MILIND N. JADHAV, J.]

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Date: 2024.04.19
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