

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2163 OF 2023

Vandana Prakash Kirdat

.. Petitioner

Versus

Mahadeo Sadashiv Suryawanshi & Ors.

.. Respondents

-
- Mr. Sanchit Chavan i/by Mr. Vikas Kolekar for Petitioner
 - Mr. Akshay Kulkarni for Respondent Nos. 1 to 5, 7 & 8
-

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 28, 2024

P. C.:

1. Heard Mr. Chavan, learned Advocate for Petitioner and Mr. Kulkarni, learned Advocate for Respondent Nos. 1 to 5, 7 & 8.

2. Perused the impugned order dated 30.01.2019 passed in Application below Exh. 45 in RCS No. 164/2017. It is seen that Suit as originally filed seeks partition of the suit property. Evidence in that regard in so far as entitlement in partition is concerned already been led. If the Plaintiffs succeed in their partition Suit, they shall be entitled to their share in the suit property. Hence, the relief of declaration in respect of that share prayed for in the Application below Exh. 45 filed under O. VI, R. 17 of the CPC *prima facie* seems to be a consequential relief to the principal relief of Partition / Share. In that view of the matter, while adhering and sustaining the reasons given by the learned Trial Court in the order I.e. to avoid further

multiplicity of proceedings, the prayer for declaration deserves to be allowed and needs to be sustained. Accordingly, impugned order dated 30.01.2019 is sustained.

3. Learned Trial Court is requested by this Court to dispose of RCS No. 164/2017 as expeditiously as possible and in any event within a period of one year from today. Parties shall co-operate with the Trial Court and shall not seek adjournments unless absolutely necessary due to certain emergency or exigency. All contentions of the parties are expressly kept open.

4. With the above directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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