

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13378 OF 2023

Popat Dnyandeo Ghadage & Anr. .. Petitioners

Versus

Santosh Bhagwat Keche & Ors. .. Respondents

-
- Mr. Sachin Mahadev Bhavar for Petitioners
 - Ms. Gauri Surel Shah for Respondents
-

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 07, 2024

P. C.:

1. Heard Mr. Bhavar, learned Advocate for Petitioners and Ms. Shah, learned Advocate for Respondents.

2. While considering the request made by Mr. Bhavar to allow him to withdraw the Writ Petition unconditionally, by order dated 02.02.2024, I had warned Petitioners that it will not be unconditional in view of the gross facts and protraction by Petitioners in the present case. A specific direction was then given to the Petitioners to inform the Court about details of any further witnesses which Petitioners / Plaintiffs before the Trial Court desired to examine in order to prolong the hearing of the suit proceedings. It is seen that in the present case though a specific order was passed by this Court as far back in 2018 (Coram : G.S. Kulkarni, J.) expediting the hearing and disposal of the suit within a period of 8 months, that order was clearly transgressed.

Thereafter there is another order passed by this Court dated 27.10.2023 (Coram : Amit Borkar, J.) which is in fact now been misused by the Petitioners in view of the stay to the suit proceedings.

3. The order impugned in the present Writ Petition has already been considered by me and I had expressed my mind that I was not inclined to interfere with the said order. The said order passed below Exh. 218 is sustained in view of the conduct of Petitioners in calling upon each and every person from the Bhima Development Sub Division No. 3, Tembhurni Department as a witness by issuing witness summons to them. Such conduct of Petitioners should not be supported considering that the Court Commissioner who had prepared the original report was thoroughly cross-examined by the Plaintiffs as a witness. All attempts of Petitioners are only to prolong the trial. In that view of the matter, the impugned order is sustained and should not, rather cannot be interfered with.

4. As observed above, withdrawal of the Writ Petition is not unconditional. Petitioners are directed to pay costs of Rs. 10,000/- to be paid to the Madha Bar Association Library, Taluka Madha, District Solapur within a period of two weeks from today.

5. Mr. Bhavar has taken instructions from the Plaintiffs and would submit that the evidence of the Plaintiffs may be declared as closed by

this Court. In view of his submissions, it is accordingly declared closed. Trial Court may note the same. Defendants shall file the list of witnesses on the next adjourned date before the Trial Court. Learned Trial Court is directed to proceed with hearing of the suit as expeditiously as possible and determine the same within a period of one year from today.

6. With the above directions, Writ Petition is disposed of as withdrawn.

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[MILIND N. JADHAV, J.]

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