

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 941 OF 2024

Naval Raghunath Ghumare

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

.....

- Mr. Nikhil G. Hire for Petitioner
- Mr. Sanjay D. Rayrikar, AGP for Respondent Nos. 1 and 2

.....

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 6, 2024

P. C.:

1. Heard Mr. Hire, learned Advocate for Petitioner and Mr. Rayrikar, learned AGP for Respondent Nos. 1 and 2.

2. Present Writ Petition takes exception to the order dated 03.10.2023 passed by learned Civil Judge Senior Division, Malegaon, Dist. Nashik in Application below Exh. 122 in RCS No. 179/2017. Application below Exh. 122 was filed by Petitioner / Plaintiff seeking amendment to the Suit plaint after Defendant No. 5 filed the written statement. It is claimed by Plaintiff that it was only after Defendant No. 5 filed written statement, it came to the knowledge of the Plaintiff that there were three earlier transactions of the year 1994, 2003 and 2008 whereby portions out of the suit property was already sold to third parties. It is now claimed by Plaintiff that he has not been instrumental in selling these portions out of the suit property on the

ground that he denies those sale deeds. Be that as it may, it is *prima facie* seen that the properties have been sold by the Plaintiff himself and one of the principal reason for rejection of the Application filed below Exh. 122 is that Plaintiff was clearly aware about the aforementioned three sale deeds of 1994, 2003 and 2008 and of having sold portions out of the suit property to third parties at the time of filing the Suit. In the Suit filed for declaration and injunction against the Defendants, allowing the Plaintiff to implead these three persons to whom portions of the suit property have been sold would certainly change the nature of the original Suit proceeding and in that view of the matter, after considering the pleadings on record, the learned Trial Court has by a reasoned order rejected the Application below Exh. 122. The reasons given by the learned Trial Court in paragraph Nos. 7 to 10 are cogent and do not call for interference by this Court. The said reasons are upheld.

3. In view of the above, the impugned order dated 03.10.2023 is sustained.

4. Considering that RCS No. 179/2017 is pending since long, learned Trial Court is requested to expedite the hearing of the said Suit and decide the same as expeditiously as possible and in any event within a period of 12 months from today. Parties shall co-operate with the learned Trial Court and not seek any unnecessary adjournments

unless absolutely necessary. Needless to state that all contentions of the parties are expressly kept open.

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

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[MILIND N. JADHAV, J.]

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