

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5609 OF 2024

Ganpati Rama alias
Ramchandra Pise & Ors.

.. Petitioners

Versus

Savita Devram Savalkar

.. Respondent

-
- Mr. S.R. Ghanavat for Petitioner
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CORAM : MILIND N. JADHAV, J.

DATE : MAY 06, 2024

P. C.:

1. Not on board. Mentioned. Taken on board.
2. Perused the praecipe dated 05.05.2024.
3. Heard Mr. Ghanavat, learned Advocate for Petitioner.
4. By order dated 15.03.2024, this Court issued notice to the Respondent after hearing Mr. Ghanavat, learned Advocate for Petitioner. The notice was obviously issued after application of mind though proceedings before the Trial Court was not stayed by this Court. Suit in the present case seeks removal of encroachment, possession and mense profit. In that Suit, after commencement of trial, Plaintiff filed Application under O. VI, R. 17 of the CPC seeking amendment to the Suit plaint and sought introduction of the prayer for partition of the suit property by metes and bounds. Though the

aforesaid facts were not mentioned in the order dated 15.03.2024, the order issuing notice is quite clear.

5. Despite the above, learned Trial Court has audacity of passing the order on 03.04.2024 by making a reference to this order dated 15.03.2024 and stating that Petitioner is delaying the matter. Mr. Ghanavat would submit that learned Trial Court has kept the matter almost every day. It was listed on 03.05.2024 as well as today before the learned Trial Court.

6. Perusal of the order dated 03.04.2024 clearly shows that learned Trial Court has taken cognizance of the order dated 15.03.2024 in paragraph No. 3 of the order.

7. In view of the above, it is now compelling on this Court to pass an order stating that allowing of Application of the Plaintiff vide impugned order dated 25.09.2023 in Application filed under O. VI, R. 17 of the CPC which is under challenge in the present Writ Petition would clearly amount to changing the nature of the Suit proceedings. In that view of the matter, learned Trial Court is directed by this Court to maintain *status quo* in RCS No. 166/2020 until the present Writ Petition is determined by this Court.

8. Mr. Ghanavat would submit that he has complied with the directions contained in the order dated 15.03.2024 and Respondent

has been served. If that be the case, Respondent is directed to remain present on the next adjourned date and comply with the directions contained in the order dated 15.03.2024.

9. Copy of this order shall be served on Respondent by learned Advocate for Petitioner.

10. Praecipe disposed.

Amberkar

[MILIND N. JADHAV, J.]

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