

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST.) NO.10107 OF 2024

Shama Shashikant Palkar

.. Petitioner

Versus

Sanjay Ratangiri Gosavi and Ors.

.. Respondents

-
- Mr. Abhijeet N. Pange, Advocate for Petitioner.
-

CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 01, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Pange, learned Advocate for Petitioner.
- 3.** Perused the praecipe dated 01.10.2024 and the Writ Petition.
- 4.** By virtue of impugned order dated 11.01.2024 passed below Exhibit-28A in Special Civil Suit No.148 of 2018, the substantive rights of the Applicant (widow) in the suit property are affected.
- 5.** Mr. Pange would submit that she is one of the four Defendants who are allegedly liable to the extent of the claim of Rs.16,93,000/- made by the Plaintiff, however her property worth more than Rs.50,00,000/- has been attached in lieu of satisfaction of the claim of Plaintiff. This order has been passed in Application filed by Plaintiff seeking attachment before Judgement. One of her

grievance is that she has received this property through a registered gift deed from her husband much prior to the culmination of the right in the said property of the Petitioner. Hence according to him this property is claimed as her self acquired property. He would therefore submit that even on merits, Petitioner has a substantial case in law to argue for dislodging the order passed for attachment of the said property before Judgement. I have perused the impugned order and pleadings and I find that an arguable case has been made out by Mr. Pange, learned Advocate for the Petitioner.

6. In fairness and on instructions he would submit that he is ready and willing to deposit a substantial part of the alleged claim amount claimed by Plaintiff in Court if the said attachment is lifted. His other grievance is that despite there been four other Defendants, the Plaintiff has chosen to proceed only against her, whereas no steps are taken against the properties belonging to the rest of the other three Defendants.

7. In that view of the matter, he would submit that he has instructions to submit to the Court that if the Court calls upon the Petitioner – Defendant to deposit a substantial part of the Plaintiff's alleged claim, the Defendant will be ready and willing to do so subject to taking further instructions.

8. In view of the above submissions, undoubtedly the Plaintiff

will have to be heard by the Court as also other Defendants who are Respondents before me. Until I hear the Plaintiff and other Defendants, in the above facts, impugned order is stayed for the time being till the next date.

9. Hence, issue notice to the Respondents. Humdast permitted. In addition to Court's notice, Petitioner is directed to serve on the Respondents a copy of this order alongwith copy of the Writ Petition within a period of one week from today and inform them about the next date of hearing by any permissible mode of service and file an appropriate affidavit of service with tangible proof of service shown therein. Respondents are directed to file Affidavit-in-Reply to the Writ Petition within a period of one week after service of the Writ Petition, if so desired and serve it on the Petitioner's Advocate.

10. Stand over to **22nd October, 2024.**

H. H. SAWANT

[MILIND N. JADHAV, J.]

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