

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9271 OF 2024

Bebsie Sudhakar Rai

.. Petitioner

Versus

Laxman Dadu Thorat and Ors.

.. Respondents

-
- Mr. Jayesh Joshi, Advocate for Petitioner.
-

CORAM : MILIND N. JADHAV, J.

DATE : JULY 12, 2024

P.C.:

- 1.** Heard Mr. Joshi, learned Advocate for Petitioner.
- 2.** Dispute in the present case pertains to Civil Miscellaneous Application filed under provisions of Section 263 of Indian Succession Act, 1925 (for short '**the said Act**') in respect of properties belonging to the deceased.
- 3.** Mr. Joshi would submit that in the interregnum the said properties have been already been parted with and alienated by the beneficiaries under the Will of the deceased to third parties. In that view of the matter, the proceedings in Civil Miscellaneous Application No.561 of 2021 filed before the Trial Court would be academic and infructuous in nature.
- 4.** Mr. Joshi would further contend that initially Applicant was granted injunction but the said order has been upset by the learned

District Court in Miscellaneous Civil Appeal. Further in view of the aforementioned facts, it would be trite to determine the Civil Miscellaneous Application No.561 of 2021 which is pending before the learned Trial Court as expeditiously as possible so that subject to the outcome of the said Application the Petitioner as also any other party shall be entitled to take out appropriate proceedings as available to them in law.

5. In view of the above, it is directed that Civil Miscellaneous Application No.561 of 2021 shall be determined as expeditiously as possible and in any event within a period of six months from today. All parties are directed to co-operate with the learned Trial Court. Trial Court is directed not to give adjournments to the parties and to give adjournments only if they are utmost necessary due to any emergency or exigency.

6. Needless to state that while determining the said Application, learned Trial Court shall not be influenced by any observations and findings returned by the learned Trial Court in the order passed in application below Exhibit-5 or by the learned District Court in Miscellaneous Civil Appeal and the said Application shall be determined on its own merits and strictly in accordance with law. All contentions of parties including that of Petitioner are expressly kept open while sustaining the impugned order passed by the learned

District Court in Miscellaneous Civil Appeal.

7. The aforesaid directions given by this Court shall be carried out for disposal of Civil Miscellaneous Application No.561 of 2021.

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

H. H. SAWANT

[MILIND N. JADHAV, J.]

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