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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9300 OF 2024

Vijay Ramchandra Adke

Petitioner (Orig.
.. Plaintiff)

Versus

Bhaskar Vinayak Mohite and Anr.

Respondents
.. (Orig. Defendants)

-
• Mr. Nagesh Y. Chavan, Advocate for Petitioner.
.....

CORAM : MILIND N. JADHAV, J.

DATE : JULY 30, 2024.

P.C.:

- 1.** Heard Mr. Chavan, learned Advocate for Petitioner.
- 2.** On 23.07.2024, after hearing Mr. Chavan, this Court had passed the following order:-

“1. Heard Mr. Chavan, learned Advocate for Petitioner.

2. Present Writ Petition takes exception to the impugned order dated 19.04.2024 which is at Exhibit “G” – page No.56 of the Writ Petition.

3. In the present Writ Petition, it is seen that the Suit is of the year 2015 and by virtue of amendment which is proposed by the Plaintiff, Plaintiff desires to include an amendment seeking mandatory injunction. The mandatory injunction sought direction to the Defendants to demolish the construction carried out by the Defendants in the interregnum.

4. It is contended by Mr. Chavan that despite the Exhibit “5” order prevailing, the Defendants breached the Exhibit “5” order and carried out the construction. In that event, the remedy was available to the Plaintiff which he did not exercise.

5. In that view of the matter, after a hiatus of 9 years, this Court cannot come to the assistance any of the Plaintiff and allow the mandatory order of injunction.

6. After I expressed my mind to the learned Advocate for the Petitioner that this Court shall not interfere with the impugned order, Mr. Chavan urged the Court that he needs time to seek appropriate instructions from the Plaintiff.

*7. At his request, stand over to 30th July 2024. To be placed under the caption "**First on Board**".*

3. In view of the aforesaid order, it is directed that the learned Trial Court shall decide Regular Civil Suit No.371 of 2015 as expeditiously as possible and in any event within a period of six (6) months from today positively.

4. The impugned order dated 19.04.2024 is upheld. However, no opinion is expressed by this Court in respect to the merits of the matter as also the case of the Plaintiff and the Defendants.

5. Needless to state that in the event if the Plaintiff succeed in proving that the Defendants have constructed on the land belonging to the Plaintiff, Defendants shall not claim any equity with respect to the said construction on the land belonging to the Plaintiff.

6. All contentions of both the Plaintiff and Defendants in the Suit are expressly kept open.

7. While sustaining the impugned order, Writ Petition stands disposed with the above directions.

[MILIND N. JADHAV, J.]

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