

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9412 OF 2024

Snehal D. Yarnalkar

.. Petitioner

Versus

Atul Bhaskar Pathak & Anr.

.. Respondents

-
- Mr. Saurabh P. Patil i/by Mr. Dhanraj Lodha for Petitioner
 - Mr. Sushant Prabhune for Respondents
-

CORAM : MILIND N. JADHAV, J.

DATE : JULY 29, 2024

P. C.:

1. Heard Mr. Patil, learned Advocate for Petitioner and Mr. Prabhune, learned Advocate for Respondents.

2. It is seen that Suit is filed in the year 2019. Though the principal relief in the Suit pertains to challenge maintained to the validity of the registered sale deed on the ground of forgery and fabrication, averments in the Suit plaint are to the effect that the properties are ancestral in nature. Be that as it may, Plaintiff will succeed or stand defeated on the basis of his case. I am not inclined to interfere with the impugned order dated 01.12.2023 passed by the learned District Court upsetting the Exh. 5 order passed by the learned Trial Court in view of the fact that since the Suit is filed on the ground which has been enumerated herein above. Both the parties to the Suit shall not deal with the suit properties and maintain *status quo* as on

date till the Suit is decided by the learned Trial Court. Since the Suit is almost 5 years old, learned Trial Court is directed to decide RCS No. 133/2019 as expeditiously as possible and in any event within a period of six months from today strictly in accordance with law and after allowing both the parties to lead their respective evidence. Both parties shall co-operate with the Trial Court and shall not seek unnecessary adjournment unless it is absolutely necessary in case of any urgency or emergency.

3. I am informed that the Plaintiff has filed Application under O. VI, R. 17 of the CPC seeking amendment to the Suit plaint which is pending. If any such Application is pending, it shall be determined by the learned Trial Court within a period of four weeks from today after hearing both the sides.

4. It is clarified that this Court has not observed on any of the merits of the matter. All contentions of the parties are expressly kept open before the learned Trial Court.

5. Apprehension is expressed by Mr. Patil that Defendants shall use the purported fabricated Will and also the subsequent gift deed executed thereafter to deal with the Suit property. In view of the directions given above that both the parties shall not deal with the suit

properties till the Suit is decided by the learned Trial Court, the apprehension of the Plaintiff is not sustained.

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

[MILIND N. JADHAV, J.]

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Date:
2024.07.30
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