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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10945 OF 2024

Ganesh Nama @ Namdev Thakur and Ors. .. Petitioners

Versus

Tukaram Soma Koli (Since Deceased)
and Ors. .. Respondents

-
- Mr. Akshay R. Pai a/w. Mr. Vikram V. Pai, Advocates for Petitioners.

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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 06, 2024.

P.C.:

- 1.** Heard Mr. Pai, learned Advocate for Petitioners.
- 2.** By virtue of the impugned order dated 08.04.2022 passed below Exhibit “1” in Civil Misc. Application No.133 of 2015 which is appended at Exhibit “D” – page No.57 of the Writ Petition, the learned District Court has directed the learned Trial Court to decide hearing of the Exhibit “5” Application expeditiously. That order was passed more than 8 years ago. Be that as it may, I am informed that the Suit and Exhibit “5” Application having been filed are still pending for hearing.
- 3.** Mr. Pai, learned Advocate makes one more submission and urges the Court to consider the same. He would submit that the Suit has been filed in the year 2015 for declaratory ownership of the Suit property as also with respect to Testamentary proceedings between the

parties. He would submit that even after 9 years, proceeding in the Suit has not moved forward. In that view of the matter, he would submit that this Court be pleased to pass appropriate orders for determination of the Suit proceeding expeditiously.

4. In view of the above position, it would be in the interest of justice to direct the learned Trial Court to dispose of Exhibit “5” Application in Regular Civil Suit No.246 of 2015 as expeditiously as possible and in any event within a period of eight (8) weeks from today after hearing both the parties.

5. A server copy of this order shall be placed before the Civil Judge, Senior Division, Panvel on 7th August 2024 at 10:30 a.m. by the Advocate for Petitioners so that the learned Trial Court shall accordingly list the matter and issue notices to the parties.

6. Copy of this order shall be served on the Respondents by the Advocate for Petitioners for their intimation.

7. Considering the aforesaid timeline and after perusing the pleadings, I am of the opinion that certain directions are required to be given for expeditious disposal of the Suit proceedings. However, the directions given above to determine the Exhibit “5” Application shall be adhered to and it shall be done within a period of four weeks from today. The learned Trial Court is directed by this Court to decide the Suit within a period of seven (7) months from today positively by

following the due process of law and strictly in accordance with law.

8. Both the parties in the Suit proceedings shall be given an opportunity to lead evidence with respect to their pleadings. I am informed that the written statement of the Defendants has been filed. Hence, parties are directed to approach the learned Trial Court at the time of hearing Exhibit “5” Application alongwith their draft issues. Both the parties are directed to prepare their draft issues and exchange the same between them within a period of two weeks from today.

9. It is clarified that, this Court has not opined or given its imprimatur on any merits of the matter as also not gone into any facts of the present case.

10. All contentions of the Plaintiff before the Trial Court are expressly kept open.

11. With the above directions, Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

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Date: 2024.08.06
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