

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SATISH
RAMCHANDRA
SANGAR

WRIT PETITION NO.13817 OF 2024

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SATISH RAMCHANDRA
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M/s.Ashtavinayak Shubham LLP

Having address at S.A. Residency,
Latif Park, Mira Bhayandar Road,
Mira Road (East), Thane : 401 107.

Through its Partners:-

1. **Arvind Anand Shetty**
2. **Santosh Krushna Putran**

...Petitioner
(Original Defendant)

Versus

Vasudeo Narahar Zurale

Age : 86 Years, Occupation : Retired,
Having address at 58, Sahaniwas Society,
Lane No.3, Karve Nagar, Pune : 411 052.

Through his Constituted Attorney:-

Mr.Mahesh Vasudeo Zurale

...Respondent
(Original Plaintiff)

WITH
INTERIM APPLICATION NO.14079 OF 2024
IN
WRIT PETITION NO.13817 OF 2024

Mr.Vasudeo Narahar Zurale

Age : 86 Years, Occupation : Retired,
having address at 58, Sahaniwas Society,
Lane No.3, Karve Nagar, Pune : 411 052,
through his C.A. Mr.Mahesh Vasudeo Zurale

...Applicant

In the matter between:-

M/s.Ashtavinayak Shubham LLP

Having address at S.A. Residency,

Latif Park, Mira Bhayandar Road,
Mira Road (East), Thane : 401 107.

Through its Partners:-

1. **Arvind Anand Shetty** ...Petitioner
2. **Santosh Krushna Putran** (Original Defendant)

Versus

Vasudeo Narahar Zurale

Age : 86 Years, Occupation : Retired,
Having address at 58, Sahaniwas Society,
Lane No.3, Karve Nagar, Pune : 411 052.

Through his Constituted Attorney:-
Mr.Mahesh Vasudeo Zurale

...Respondent
(Original Plaintiff)

Mr.R.D.Suryawanshi a/w Mr.Suraj Naik, Mr.Roshan Hule:-	Advocates for Petitioner.
Mr.Nitin Gangal-Counsel, Mr.Hemal Dedhia, Mrs.Kinjal Jain and Ms.Prapti Karkera i/b. Navdeep Vora & Associates:-	Advocates for Respondent.

CORAM : S. M. MODAK, J.

DATE : 24th OCTOBER 2024

P. C. :-

1. Heard learned Advocate Shri.Suryawanshi for the Petitioner-Defendant and learned Advocate Shri.Gangal for the Respondent-Plaintiff.
2. The order allowing the Plaintiff-Respondent to amend the Plaint

dated 2nd August 2024 is challenged by the Defendant. By this order, the trial Court has permitted the Plaintiff to incorporate the four boundaries of the Suit land. The Plaintiff claims that this amendment is sought on the basis of the directions given by the trial Court on 22nd July 2024. This direction was given when hearing of Exhibit-5 Application was going on. The trial Court found some difficulty in identifying exact location of the property which trial Court thought necessary for deciding the real question and that is why, this direction was issued. The Defendant is aggrieved by both these directions.

3. This Court after hearing the Petitioner, has directed the trial Court to defer passing of final order on Exhibit-5. It is true that the order allowing the amendment is not stayed. As such, the Respondent can certainly carry out the amendment. The issue is, the passing of order on Exhibit-5 is deferred.

4. There is one more development. Now, the Defendant has applied for joint measurement of both the lands with the Office of Deputy Superintendent of Land Records. Even, similar Application is filed before the trial Court. The Defendant wants the cooperation of the Plaintiff so that joint measurement can be done smoothly. Even,

according to the Defendant, if joint measurement is done, the entire controversy will be cleared. On the basis of instructions, learned Advocate Shri.Gangal submitted that his client is ready for joint measurement of the land. In view of that, the Defendant can proceed with the joint measurement of the land as per the Rules.

5. Now, the Respondent-Plaintiff wants the Petitioner-Defendant not to carry out any construction of which, temporary injunction is sought. There is some dispute, whether this Court should pass this direction when Exhibit-5 is pending for adjudication. I think, this issue can be left open for decision by the trial Court. Even, the Petitioner-Defendant wants the trial Court to consider the map prepared as per the new survey. The Respondent-Plaintiff apprehends, if the measurement will take time, the hearing of Exhibit-5 will be delayed. This Court feels, if the Defendant wants passing of order on Exhibit-5 to be deferred in view of the measurement, he can request the trial Court. The trial Court to consider that request after hearing both the parties. In view of that eventuality, even the Respondent-Plaintiff can request the trial Court for passing some interim orders.

6. In view of that, the **Writ Petition stands disposed of.**

7. The ad-interim relief is vacated.
8. **Pending Interim Applications also stand disposed of.**

[S. M. MODAK, J.]