

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.610 OF 2024

Smt.Urmila Prabhakar Salunkhe

...Applicant

V/s.

Suman Prabhakar Salunkhe

...Respondent

SATISH
RAMCHANDRA
SANGAR

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SATISH RAMCHANDRA
SANGAR

Date: 2024.12.17
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Mr.P.S.Dani – Senior Advocate i/b.	Advocate for Applicant.
Mr.Prasad B. Kulkarni:-	
Mr.Sanjay C. Prabhu:-	Advocate for Respondent.

CORAM : S. M. MODAK, J.

DATE : 14th DECEMBER 2024

P. C. :-

1. Heard learned Senior Advocate Shri.Dani for the Applicant/ Defendant and learned Advocate for the Plaintiff.
2. There are two Applications filed in Regular Civil Suit No.510 of 1999. The plaint is on Page No.74. The Plaintiff has sought for a declaration about her status being legally wedded wife of deceased Prabhakar. Initially, there was an *ex parte* decree passed in the suit. It was challenged by the Defendant-Petitioner. It was set aside and the

matter is remanded for fresh trial. The hearing of the suit is also expedited. The order of the Appellate Court is dated 11th July 2024. (Page No.72). The present Petitioner-Defendant was also permitted to file written statement. It is true, there is a direction to dispose of the suit within a period of six (6) months.

3. After the remand, even though the Defendant has filed written statement, she has filed two Applications before the trial Court. They are as follows:-

(a) The Application as per the provisions of Order VII, Rule 10 of CPC. It is for the reason, the cause of action pleaded in Para No.3 of the plaint (Page No.76), is relating to receipt of letter from the Commissioner of Police, Mumbai. His Office is situated in Mumbai. So, the Karad Court is not having a territorial jurisdiction. (The Application is dated 15th October 2024 : Page No.117).

(b) Second Application is filed as per the provisions of Order VII, Rule 11 of CPC. It is on the basis of proviso to Section 34 of the Specific Relief Act, 1963 and on the ground of limitation.

4. The trial Court has decided both these Applications and rejected them. The Application as per the Order VII, Rule 10 of CPC was rejected on 8th November 2024 (Page No.124) and Application as per

provisions of Order VII, Rule 11 was dismissed on 17th October 2024. (Page No.110).

5. An urgent circulation is sought because now, the suit is fixed for recording of evidence as the hearing is expedited. According to learned Advocate for the Respondent, there is one more Interim Application filed by the Defendant requesting for framing of additional issues. The copy is tendered. It is taken on record and marked Annexure-X. It mentions, framing of issue by the trial Court on 13th November 2024 and thereafter, the Defendant requested framing of additional issues.

6. According to learned Senior Advocate Shri.Dani, that Application was given without prejudice to her right to agitate this Civil Revision Application. Because, according to him, the issue about return of plaint needs to be decided prior to framing of issues. According to him, they have done it within the parameters of law. He requested for staying the hearing of the suit because if the trial Court will start recording of evidence or dealing with the Application for framing of issue, it will create unnecessary complications.

7. According to learned Advocate for the Respondent, the suit is pending since 1999 and the Plaintiff is aged above 70 years and he has criticized the conduct of the Applicant in filing one Application after

another Application, so that, the hearing of the suit will be delayed.

8. The dispute is in between the two ladies who claims to be the legally wedded wives of the deceased. The dispute is pending since 1999 and Prabhakar died in the year 1994. It seems that due to the dispute, the employer has not disbursed the death benefits. There is also a suit filed before the City Civil Court by the present Applicant seeking for declaration as to her marital status. In that suit, the employer has deposited certain amount from the death benefits. Even, the Applicant is aged about 70 years.

9. Considering the above situation, this Court feels that the matter can be referred to Mediation and an attempt can be made to settle the dispute. Though, principally, both of them agreed but there is some difference about the place at which, mediation should be conducted. Some time can also be granted to them to decide about place.

10. In the meantime, the hearing of the suit is stayed. On the next date, Court will ascertain whether there is a consensus on the place of mediation. Either of the party is at liberty to request the Court for hearing of this Revision Application.

11. At this juncture, learned Advocate for the Respondent submitted that let the mediation may take place in Mumbai. If it is so, then parties

need to be given some time to think over the settlement. So, the hearing of the suit has to be stayed till next date. Both are at liberty to request the Court for hearing of this Revision depending upon further development.

12. In view of that, following order is passed:-

ORDER

- (i) The dispute is referred to Mediation.
- (ii) The Deputy Registrar of Mediation Centre is directed to appoint a Mediator from their Panel considering the nature of the dispute.
- (iii) Both the parties are directed to approach the learned Deputy Registrar on 20th December 2024 and thereafter, further meetings can be conducted by the learned Appointed Mediator.

13. Let, this matter be kept on **22nd January 2025**. To be listed for “Compliance”.

14. An ad-interim relief, if any, to continue till next date.

[S. M. MODAK, J.]