



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 7222 OF 2019

(Smt Veena wd/o Arvind More vs. Shri Mukunda Pundlikrao Kakde and others)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders of direction,
and the Registrar's orders.*

Court's or Judge's order

Mr. H.I. Kothari, Advocate for the Petitioner/s.
Mr. D.T.Shinde, Advocate for the respondent Nos.2, 3, 16 to 23.

CORAM : ABHAY J. MANTRI J.

DATE : SEPTEMBER 23, 2024

Heard learned Counsel for the petitioner/original defendant No.3 and learned Counsel for the respondent Nos.2,3 and 16 to 23. The petition is dismissed against respondents Nos. 1,4 and 12. Respondents No. 6 to 11, 13 to 15, and 24 are served. None appeared for them. Respondents No. 5, 25 and 26 were reported dead. Perused the record.

2) By this petition, the petitioner/Original defendant No. 3 challenged the order dated 22/04/2019 passed below exhibit No.21 in RCS No. 1004/2018, whereby rejected the application filed by her under Order VII Rule 11 of the CPC for rejection of the plaint on the ground that the plaint is undervalued and the Suit is barred by limitation.

3) According to the learned counsel for the petitioner, the question of limitation is a mixed question of the law and facts, and without adjudicating, the question of limitation has recorded a finding that the suit is within limitation. The trial Court recorded the said finding without considering the material placed on record. However, during the course of the argument, he pointed out prayer clause (vi) in the suit, whereby the original plaintiffs claimed that the preliminary decree be sent to

defendant No.15 in respect of quashing and cancelling the registered deeds of confirmation dated 07/01/2006 and 09/01/2006. Hence, he submitted that the said prayer is hit by the law of limitation.

4) On confrontation with the said facts, learned Counsel for the respondents/original plaintiffs submitted that the original plaintiffs are ready to delete the prayer clause (vi) in the suit and undertake accordingly. His statement/undertaking is accepted. In view of the same learned counsel for the petitioner has submitted to dispose of the petition by keeping the point of limitation open regarding the prayer clauses (i), (iii) and (iv) in the suit. For which learned advocate for respondents has also consented.

5) It also seems that since 2018, the suit has been pending before the trial Court.

6) Considering the above submissions of the learned Counsel for the parties and record, I deem it appropriate to pass the following order.

7) Petition is disposed of. Pending applications, if any, are disposed of. The interim relief, if any, stands vacated.

8) The matter has been pending since 2018; hence, the learned trial Court shall dispose of it expeditiously, as per the litigation policy, keeping the point of limitation open as prayed above.

9) Needless to clarify, the learned trial Court shall not be influenced by the impugned order or this order.

(ABHAY J. MANTRI, J.)