



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7137 OF 2022

Jayshree Prabhakar Samleti
VERSUS
Sumanbai Sudarshan Samleti

Mr. A. R. Syed, Advocate for Petitioner
Mr. L. B. Palod, Advocate for Respondent

CORAM : R. M. JOSHI, J.
DATE : 07th April, 2025

PER COURT :-

1. This petition takes exception to the order dated 15.03.2022 passed below Exhibit 7 in Regular Civil Appeal No. 118/2019.
2. Petitioner/appellant before the District Court and original defendant in Special Civil Suit No. 34/2017 has filed the said application for seeking stay to the execution of decree dated 29.01.2019.
3. The facts as they appear from the record are narrated in brief as under.
4. Respondent/plaintiff filed Special Civil Suit No. 34/2017 seeking possession of the suit property from defendant. She claims herself to be the exclusive owner of the suit. There is no dispute about the fact that the plaintiff

is mother in law of defendant. The suit came to be filed after the demise of son of plaintiff for eviction of daughter in law. Defendant contested the suit claiming the property to be ancestral property and her husband having spent money for renovation and construction. Parties led evidence before the Trial Court. Trial Court passed judgment and decree dated 29.01.2019 directing removal of petitioner/original defendant from suit house.

5. Learned counsel for the petitioner submits that the original defendant has raised plea before the Trial Court about claiming ownership of the suit house to her deceased husband. It is his submission that the Trial Court has failed to take into consideration the evidence led before the Court in the form of diary which indicates expenses being done by husband of defendant.

6. Learned counsel for respondent/original plaintiff supported the impugned order.

7. Plaintiff filed suit in respect of recovery of the suit house from defendant. Prima facie perusal of the record indicates that plaintiff was able to prove that she has purchased the said property. In so far as claim of the defendant is concerned, admittedly no counter claim was filed before the Trial Court to claim any right, title or interest in the suit property. In the light of the

afore stated facts, perusal of the impugned order indicates that the First Appellate Court has taken into consideration the findings recorded by the Trial Court and refuse to cause interference therein. Having regard to the facts on record, said order cannot be called as perverse.

8. During the course of the hearing of the petition without prejudice, it was sought to suggest on behalf of the respondent that if the petitioner deposits a sum of Rs. 2,000/- per month from the date of decree till date and with further condition of depositing amount regularly in every month till decision of appeal, request of petitioner may be considered. This suggestion of the respondent however has not been accepted by the petitioner. This Court, therefore, does not find it necessary to pass any order in this regard

9. Suffice it to say that petition has not merit. Hence, petition stands dismissed.

(R. M. JOSHI, J.)

bsj