

(1999) 01 BOM CK 0024

In the Bombay High Court

Case No : Civil Revision Application No. 57 of 1990

Baburao

APPELLANT

Vs

Gangubai and Others

RESPONDENT

Date of Decision : 28-01-1999

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Citation : (1999) 3 ALLMR 417 : (2000) 1 BomCR 121

Hon'ble Judges : S.B. Mhase, J

Bench : Single Bench

Advocate : V.B. Ghatge Patil, for the Appellant; A.S. Deshmukh for S.G. Deshmukh, for the Respondent

Judgement

S.B. Mhase, J.—Heard Shri V.B. Ghatge-Patil, learned Counsel for the petitioner and Shri. A.S. Deshmukh, Advocate, holding for Shri, S.G. Deshmukh, learned Counsel for respondent No. 3.

2. This Civil Revision Application is directed against the order dated 18-12-1989 passed by the learned Civil Judge, Senior Division, Parbhani, below Exhibit-94 from Special Civil Suit No. 21 of 1965 wherein the request was made that till the reference proceeding sent u/s 99-A of the Hyderabad Tenancy and Agricultural Lands Act, has been finally adjudicated by the Maharashtra Revenue Tribunal, the hearing of the suit may be stayed. It appears that after the matter was decided by the Sub-Divisional Officer in Appeal, the decision was communicated to the Civil Court on the basis of which the Civil Court wanted to proceed however, the Civil Court was informed that the matter is pending before the Maharashtra Revenue Tribunal by way of revision u/s 91 of the Hyderabad Tenancy and Agricultural Lands Act, 1950. In fact unless the reference is disposed of by following the procedure laid down under the Act and unless it is finally adjudicated, the Civil Court should not proceed with the hearing of the suit and thus when the parties have submitted to the Court that the matter is pending before the Maharashtra Revenue Tribunal, the Court should have stayed the suit.

However, the Court insisted that the stay order should be brought from the M.R.T. so as not to proceed with the hearing of the suit. It is pertinent to note that it is the Civil Courts who make a reference u/s 99-A to the tenancy authorities to decide the issues which are required to be decided or settled by the Tenancy Authorities, therefore, it is for the Civil Courts to get satisfied that the final adjudication of the issues referred has been carried out by the Tenancy Authorities and thereafter to proceed with the hearing of the civil suit in the light of the decision given by the tenancy authorities. Instead of that, the trial Court has insisted that the party which has preferred revision before the M.R.T. shall get the stay order from the M.R.T. that the suit is stayed and/or the findings recorded by the sub-ordinate courts are stayed. The said order is therefore not in accordance with the law and therefore the said order is set aside and the Civil Revision Application is allowed.

3. However, looking to the fact that the matter was pending since the year 1989 before the Maharashtra Revenue Tribunal when the application was moved in the Civil Court to stay the hearing of the suit by the present petitioner, by this time the M.R.T. must have disposed of the said revision and probably the High Court must have also disposed of petition and/or application challenging the said decision of M.R.T.

4. In any circumstances, the trial Court is directed to ascertain from the parties as to whether the issue referred by the trial Court to the tenancy authorities u/s 99-A has been finally adjudicated or not including the High Court and the Supreme Court and if the issue has been settled, thereafter shall proceed to hear the suit.

5. With the above directions, the Civil Revision Application is disposed of. In the facts and circumstances of the case, there shall be no order as to costs.

6. Order accordingly.