

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

WRIT PETITION NO. 3541 OF 2015

Shri Chandrakant Ramdas Jain

...PETITIONER

versus

Shri Santosh Dattatrya Jain and others

...RESPONDENTS

.....
Mr. G.D. Jain, Advocate for Petitioners
Mr. A.D. Pawar, Advocate for respondent No. 1
.....

CORAM : SUNIL P. DESHMUKH, J.

DATED : 11th AUGUST, 2015

Order :-

1. Heard learned counsel for petitioner as well as respondent No. 1. Petitioner is uncle of respondent No. 1. After hearing the parties, it emerges that, property concerned is a property of Gram Panchayat, Bodwad.

2. From rival contentions, it appears that it is being rented out either to father of respondent No. 1 or for that matter on some occasions to the petitioner. It appears that petitioner had been paying rent for some time and also paying electricity charges, and connection stands in his name.

3. It appears that in 2012 father of respondent No. 1 died and thereafter dispute has arisen, since respondent No. 1 staked claim in running of business and place of business. As such, suit has been filed by him seeking declaration and injunction. Application for temporary

injunction by plaintiff before trial court failed, however, appellate court has reversed the finding with reference to certain record as has been referred to in the order by the appellate court.

4. Certain documents issued by the Gram Panchayat purportedly show that it is respondent No. 1 who is concerned with the property. The observations, which have been made by the appellate court while passing the order, appear to be on preponderance of probabilities. Since the order appears to be passed on appreciation as has been placed by appellate court which at this stage does not appear to be not passed on facts, I do not deem it appropriate to meddle with the same. Having regard to the same and looking at the near relationship between the parties, it would be worthwhile that suit itself be proceeded expeditiously.

5. Having regard to aforesaid observations, Regular Civil Suit No. 280 of 2014 pending among the parties before civil judge junior division, Bhusawal, shall be proceeded with as expeditiously as possible, preferably within a period of four months from the date of receipt of writ of this order.

6. Writ petition, as such, stands disposed of with no order as to costs.

7. It is made clear that observations in this order are only *prima facie* in nature and not on merits and shall not influence decision making in the proceedings in trial court.

Sd/-

(SUNIL P. DESHMUKH, J.)