

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPEAL FROM ORDER NO. 34 OF 2015
(Subhashchand s/o Hukumchand Bora Vs. Ramesh s/o
Mishrilal Patni and others)

Mr. A.S. Bajaj, Advocate for the appellant

Mr. Vinod I. Thole, Advocate for respondents No. 1 and 2

CORAM : M.T. JOSHI, J.

DATE : 15/04/2015

ORAL ORDER :

1. Heard Mr. A.S. Bajaj, learned counsel for the appellant and Mr. V.I. Thole, learned counsel for respondents No. 1 and 2. Mr. V.I. Thole, learned counsel fairly submits that in the appellate court, he is also appearing for present respondents No. 3 and 4, who are the joint appellants and hence, he appears for these respondents No. 3 and 4 in the present appeal also. The rest of the present respondents are proforma respondents and therefore, notices to them are dispensed with.

2. Without going into merit of the case, Mr. A.S.

Bajaj, learned counsel for the appellant, makes a statement that the impugned order may be set aside on the condition that the appellant would file an undertaking in the proceeding before the appellate court i.e. Regular Civil Appeal No. 43/2012 within a period of two weeks that in case the appeal filed before the District Court is allowed and in execution of the decree for partition, if the area under the development would be allotted to the present respondents No. 1 and 2, the appellant would demolish the development made by him and make the situation on the spot as is found today at his own cost within a period of two months or in case the respondents No. 1 and 2 desire, they would take the possession of the area alongwith the development, if any made by the appellant, without making any payment therefor, by showing the readiness within the said period.

3. Upon hearing both sides, the offer appears to be reasonable one. In the circumstances, the said submissions made on behalf of the appellant are accepted. The appellant to act on the basis of his oral statement made today. Upon filing the undertaking, the

impugned order shall stand set aside and application at Exhibit-20 shall stand disposed of in view of the undertaking. With these observations, the present appeal from order is disposed of without any order as to costs.

[M.T. JOSHI]
JUDGE

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