

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPEAL FROM ORDER NO. 2 OF 2014
WITH
CIVIL APPLICATION NO. 6961 OF 2012
IN
APPEAL FROM ORDER NO. 2 OF 2014
(Subhash s/o Uttam Thakare and others Vs. Sau Jayashri
w/o Rajesh Devatalu and others)

Mr. K.C. Sant, Advocate for the appellants/applicants
Mr. S.P. Brahme, Advocate for respondent No.1
Mr. P.R. Adkine, Advocate for respondents No. 2, 4,
5, 7 and 8

CORAM : M.T. JOSHI, J.
DATE : 15/04/2015

ORAL ORDER :

1. Heard both sides.
2. As the respondent No. 1 claims 1/7th share in the suit property which is already divided by non-agricultural plots, as per the directions of this Court, the respondent No. 1 has filed the chart/statement showing as to which plot should be kept reserved for satisfaction of the claim of the respondent No. 1 in case the decree in favour of the respondent No. 1 is passed. The said chart/statement is accepted on record and marked "X" for the purpose of identification.

3. Mr. K.C. Sant, learned counsel for the appellants and Mr. P.R. Adkine, learned counsel for respondents No. 2, 4, 5, 7 and 8 submit that they would have no objection if the temporary injunction is continued till the decision of the suit as regards the plots as detailed in the chart/statement ("X"), without prejudice to their right or claim as well as pleadings in the proceedings. In the circumstances, the following order:-

4. The appeal from order is hereby partly allowed. The impugned order dated 09.02.2012, passed by the learned Civil Judge Senior Division, Dhule in application below Exhibit-5 in Special Civil Suit No. 328/2011, is hereby partly set aside and it is hereby declared that the said order shall remain effective only as regards the fifty plots which are detailed in the chart/statement at "X".

5. The trial court is directed to take efforts for expeditious hearing in the suit.

6. The appeal is accordingly disposed of without any order as to costs.

7. In view of disposal of the appeal from order, civil application No. 6961/2012 does not survive and hence, stands disposed of accordingly.

[M.T. JOSHI]
JUDGE

npj/ao2-2014