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

WRIT PETITION NO. 7151 OF 2015

MOHD YUSUF ABDUL SATTAR
VERSUS
JANABAI PRAKASH UDAVANT AND OTHERS

...
Advocate for Petitioner : Shri M.S.Chaudhari h/f Chaudhari Md.
Mujeebuddin MS.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 28th August, 2015

Per Court:

1 The Petitioner is the original Plaintiff in RCS No.548/2012. The application (Exhibit-5) under Order 39 Rule 1 of the Code of Civil Procedure seeking temporary injunction was preferred by the Petitioner/Plaintiff.

2 The Respondents/ Defendants have filed the Written Statement before the Trial Court indicating that the suit property is not in the name of the Respondents. The suit property is in the joint names of the deceased Prakash Udavant and his brothers. The Respondents are not in any position to execute any sale deed in favour of the Petitioner.

3 The Trial Court considered the aspect as recorded above and concluded that the Petitioner's apprehension is misconceived. When the Respondents have come with a specific case that the suit property is not in the name of the Respondents and they cannot alienate it, the Trial Court rejected the application Exhibit-5 by the impugned order dated 06.07.2013.

4 The Petitioner preferred Miscellaneous Civil Appeal No.109/2013. By the judgment and order dated 28.08.2014, the Appellate Court has dismissed the said appeal for the reasons recorded by the Trial Court.

5 Shri Chaudhari, learned Advocate for the Petitioner, strenuously submits that subsequent to the order passed by the Trial Court, an application for amendment has been filed. That has also been rejected and that is a part of a different proceeding which has come upto this Court.

6 The order challenged in this petition cannot be assailed on subsequent events as like the Petitioner having applied for amendment and the said amendment having been rejected.

7 In the light of the above, I do not find that the impugned order could be termed as being erroneous or perverse. This Writ Petition is devoid of merit and is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)