

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

**APEAL FROM ORDER NO. 62 OF 2015
WITH CA/7482/2015 IN AO/62/2015**

**SATISH SATYANARAYAN SHARMA
VERSUS
THE COLLECTOR, BEED AND OTHERS**

...
Advocate for Petitioner : Mr. V. H. Sangole h/for Mr. Kulkarni M.A.
AGP for Respondents State: Mr. P. P. More

...
CORAM : S. V. GANGAPURWALA, J.

DATE : 27th August, 2015

PER COURT :

1. Learned counsel for the appellant submits that respondent No.3 had agreed to maintain status quo in respect of the suit premises, however, inspite of filing purshis to maintain status quo, respondent No.3 erected tin shed, violating the undertaking. In such circumstance, the Court ought to have allowed the application Exh.66 filed by the present appellant for temporary mandatory injunction. Learned counsel submits that respondent No.3 agreed to maintain status quo. He did not have any authority to erect structure. The disputed property is a vacant land and situated in the market place. Taking undue advantage of the summer vacation, on 10.05.2015, respondent No.3 erected temporary tin shed in the open space abutting the municipal road, without permission of the court or the Municipal Council. Even criminal complaint is filed against respondent No.3 with the JMFC.

2. I have considered the submissions and the order passed.

3. It was submitted that respondent No.3, with a view to avoid encroachment, erected temporary shed for security. The appeal is still pending. The appellate court can consider all the aspects at the time of final adjudication. The appeal is pending since the year 2010. The parties can get the appeal decided expeditiously.

4. At the time of final adjudication of the appeal, in case the appellant succeeds, then the appellate court can pass further orders with regard to erection of tin shed or otherwise. At this stage, there is no need to interfere with the order of the lower appellate Court. The appeal from order stands dismissed. Civil application also stands disposed of. No costs.

(S. V. GANGAPURWALA, J.)

JPC