IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

APEAL FROM ORDER NO. 127 OF 2013
WITH CA/16004/2013 IN AO/127/2013

PANDURANG DATTATRAYA DUDHAWADE
VERSUS
DEORAM JIJABA JAMDADE AND OTHERS
...
Advocate for Petitioners : Mr/ Kale Ajeet B.
…

CORAM : S. V. GANGAPURWALA, J.

DATE : 1st September, 2015

PER COURT :

1. Mr. Kale, the learned counsel for the appellant submits that the trial court, without considering the case pleaded by the appellant, has allowed the injunction application filed by the respondents and restrained the appellant from alienating and creating third party interest in respect of the suit property. The learned counsel submits that section 52 of the Transfer of Property Act would take care of such eventualities. The court failed to consider that the Will has been executed in favour of defendant No.6 by Dhondu Mhartarba. The same is registered Will. Grant of injunction is an embargo on the rightful owner.

2. I have gone through the judgment.

3. It is submitted that now the suit is fixed for evidence. The impugned order of injunction is of July, 2013. The injunction is restraining the present appellant from alienating or creating third party interest. Now,

as the matter is ripe for evidence, it would not be worthwhile to consider the arguments of the learned counsel. The court, considering the larger interest, has passed the order.

4. In the light of above, the appeal from order is disposed of.

5. It is made clear that the trial court shall decide the suit on its own merits, in accordance with law, *de hors* the observations made while deciding the temporary injunction application Exh.5.

6. The trial court shall decide the suit expeditiously, preferably within one year.

7. Civil applications also stand disposed of.

(S. V. GANGAPURWALA, J.)

JPC