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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3516 OF 2013

Riyaz Taj Mohamed Satvilkar

..Petitioner

Vs.

Smt. Shgufta Riyaz Satvilkar

..Respondent

Mr. Anil D'Souza for Petitioner.

Mr. H.J. Dedhia, APP for State.

CORAM: A.S. GADKARI, J.

DATE : 18th June 2015.

P.C.

1 The present petition, under Article 227 of the Constitution of India, is filed against the orders passed dated 18th June 2012 passed by the Judicial Magistrate First Class, Panvel below Exhibit-6 in Criminal Misc. Application No.55 of 2012 and order dated 15th July 2013 passed by the learned Additional Sessions Judge, Alibaug, District Raigad in Criminal Revision Application No.82 of 2012.

By order dated 18th June 2012 passed by the Judicial Magistrate First Class, Panvel below Exhibit-6 in Criminal Misc. Application No.55 of 2012 under Sections 18, 20 and 22 of the Protection

to Women from Domestic Violence Act, 2005 granted an injunction in favour of the wife and restrained the petitioner from selling and/or transferring the flat in dispute. Criminal Revision Application no.82 of 2012 preferred by the petitioner/husband against order dated 18th June 2012 passed by J.M.F.C., Panvel, has been dismissed by the learned Additional Sessions Judge, Alibaug District Raigad. Hence, the present petition.

2 Heard Mr. D'Souza, the learned Counsel for the Petitioner. The learned Counsel for the petitioner submits that before the petitioner was served with the copy of the Application filed under the Protection to Women from Domestic Violence Act, 2005 bearing no.55 of 2012, he had already effected transfer of the said flat in question. He further submits that there is a specific contention raised by the petitioner in his reply at paragraph 39 that the said flat was transferred on 23.3.2012 with a view to settle the dues/debt of the creditors. He urged that the Trial Court as well as the Revisional Court have failed to take into consideration this vital aspect of the matter and therefore the orders passed by the Courts below are bad in law.

3 It is to be noted here that the respondent-wife had filed an Application bearing no.55 of 2012 under the Protection to Women from Domestic Violence Act before the Trial Court on 1.3.2012 and filed an

Application below Exhibit-6 for interim relief. The said Application below Exhibit 6 was filed on 5.3.2012 and therefore it is obvious that after the knowledge about filing of the Application by the respondent-wife, the petitioner had deliberately and with a view to defeat the legitimate right of the wife allegedly effected sale deed dated 23.3.2012 and alleged to have been transferred the property. It is pertinent to note here that reply filed by the petitioner before the Trial Court is absolutely silent about the physical possession of the property i.e. the flat in question.

4 As stated above, I am of the considered opinion that the petitioner with a view to defeat the legitimate right of the wife has taken a plea of effecting the transfer of the said flat and therefore the reply filed to the Application below Exhibit 6 is silent about the handing over possession or the actual aspect of possession.

5 I have perused the entire material available on record. I have also perused the orders passed by the Trial Court dated 18th June 2012 below Exhibit 6 and Revisional Court dated 15th July 2013. I find that orders passed by the Trial Court as well as Revisional Court do not suffer from any infirmity either on the facts or in the law and in my considered opinion, there is no merit in the present petition.

6 The writ petition is dismissed in limine.

(A.S. GADKARI,J.)