

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

WRIT PETITION NO. 3814 OF 2013

Baban Ramrao Dakle and Others

..PETITIONER

VERSUS

Anita Satish Dakle

..RESPONDENT

....

Mr. P.D. Bachate, Advocate for petitioner.

Mr. A.S. Kadam, Advocate for respondent.

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 17th FEBRUARY, 2016

ORAL ORDER :

1. The petitioner is aggrieved by the order dated 21.07.2011 passed by the Trial Court below Exhibit 5 in Regular Civil Suit No. 37/2011 and the judgment of the Appeal Court dated 16.04.2013 delivered in Miscellaneous Civil Appeal No. 140/2011.

2. I have heard Mr. Bachate and Mr. Kadam, learned Counsels for the petitioners and respondent respectively.

3. This petition raises a challenge to an interlocutory order, before this Court. The application Exhibit 5 invoking Order 39 Rule 1 of the Civil Procedure Code has been allowed by the Trial Court and an injunction has been clamped upon the petitioner. A Miscellaneous Civil Appeal No. 140/2011 was preferred by the petitioner before the Appeal Court. By the impugned judgment dated 16.04.2013, the order of the learned Trial Court has been confirmed.

4. The petitioner has approached this Court vide this writ petition. By order dated 09.05.2013, after hearing the parties, status-quo in respect of the suit property as on 09.05.2013 was ordered.

5. This matter was thereafter posted for admission on several occasions. Ad-interim order dated 09.05.2013 continued to operate and the status-quo in respect of the property that was directed is in operation even today.

6. Mr. Kadam, learned Counsel for the respondent strenuously submits that the respondent is in possession of the suit property. The suit is still pending. The petitioners-original defendants have been subjected to the injunctory orders by the lower Courts. When the suit is for perpetual injunction, any disturbance caused to the possession of the respondent by the petitioners would frustrate the rights of the respondent and would virtually render the suit infructuous. He therefore submits that the possession of the respondent be protected and the suit be expedited.

7. I find that there is no dispute as regards the clamping of injunction by the Trial Court and the Appeal Court on the petitioners. The status-quo in respect of the property has ordered by this Court on 09.05.2013 would not give any latitude to the petitioners to dispossess the respondent if the respondent is still in possession.

8. As such, I am of the view that the suit need not be kept pending. The interim order of this Court is in operation from

09.05.2013 for practically more than 2 years and 8 months. As such, by directing the status-quo in respect of the suit property to be maintained as it was on 09.05.2013, the suit could be expedited.

9. In the light of the above, this petition is disposed of. The Trial Court is expected to decide R.C.S. No. 37/2011 as expeditiously as possible and preferably on or before 31.12.2016. The litigating sides shall refrain from seeking adjournments on any unreasonable and trivial grounds. Till the disposal of the suit or till 31.12.2016, which ever is earlier, the directions of this Court dated 09.05.2013 shall continue to operate. However, it is made clear that the petitioners shall not initiate any steps for altering the situation or for dispossessing the respondents in the event she is in possession of the suit property.

(RAVINDRA V. GHUGE, J.)