

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6586 OF 2016

Deorao Bhikaji Goje and Ors. ... Petitioners
Vs.
Jyoti Devendra Mahadik ... Respondent

Mr. S.S. Wagh, Advocate for the petitioners.
Mr. Virendra B. Kale, Advocate for the respondent.

CORAM : SUNIL P. DESHMUKH, J.
DATE : 27-06-2016.

Per Court :

1. Heard learned counsel for the petitioners.
2. The petitioners purportedly aggrieved by the order dated 19-04-2016 passed by the District Judge-11, Aurangabad in M.C.A. No. 43/2015 to the extent of clamping of injunction and restraining defendants from creating any third party interest over the property referred to in clause (3) of operative part of impugned order are before this court.
3. Learned counsel for the petitioner vehemently submits that there has been partition which has taken place long back and revenue entries have accordingly taken place which are long standing. Learned counsel further submits that long standing revenue entry shall prevail over the contentions now being

advanced on behalf of the plaintiff and should have been accordingly weighed.

4. He submits that with reference to one property the appellate court has maintained the order passed by the trial court on exhibit-5 and as such a different treatment had not been called for in respect property of which there is over bearing evidence as on the date showing that the plaintiff would not be able to stake claim to the property and no document in respect of partition has been adduced. He submits that order to the extent of clause (3) in operative part of impugned order is upon cursory consideration of matter.

5. At this stage, the order under clause (3) has been clamped. He, therefore, urges to consider that the application at exhibit-5 for injunction by plaintiff has been rejected and contends that clamping of injunction under clause (3) would hamper the legitimate and valuable interest of petitioners property. He further contends having regard to section 52 of the Transfer of Property Act dealings entered into after institution of the suit would be affected and as such no express order was necessary.

6. The order is an innocuous order and is not such an order which can be said to prejudice the petitioners and / or is too

harsh on the interest contended by the petitioners in the suit property. The situation can be met with by issuing proper directions instead of meddling with the order.

7. As such the writ petition is not being entertained and is rejected, however, the trial court may proceed with the suit as expeditiously as possible, since it is stated that the issues have been framed, and preferably dispose of the suit within a period of nine months from the date of receipt of this order.

(SUNIL P. DESHMUKH)
JUDGE