

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

930 WRIT PETITION NO.8917 OF 2015

MUNIR NASIR KURESHI
VERSUS
AFJAL KHAJAHUSEN KURESHI AND ANOTHER

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Advocate for Petitioner : Mr. Kore Ganesh J.

CORAM : P.R.BORA, J.

DATE : 14th January, 2016.

PER COURT :

1) Heard learned Counsel for petitioner. The petitioner has challenged order dated 9.6.2015 passed by 2nd Joint Civil Judge, Junior Division, Tuljapur, below Exhibit-34 in Regular Civil Suit No.333/2014, alleging that the order so passed is contrary to the provisions of law and contrary to the material on record.

2) It is not in dispute that the present respondents have filed Cross-objections in the Regular civil Suit No.333/2014 filed by the present petitioner. It is further not in dispute that the present respondents had filed an application at Exhibit-22, seeking preventive orders against the

petitioner restraining him from causing obstruction to possession of the property in their possession, as described in the cross-objection filed by them. Further, there is no dispute that the said application at Exhibit-22 has been allowed by the trial court vide order dated 9.1.2015, whereby the present petitioner is restrained from causing obstruction to the property in possession of the present respondents as described in the cross-objection.

3) From the contents of the application at Exhibit-34 and the order 9.6.2015 passed below the said application, it is quite clear that the said order is passed in continuation of and for giving effect to the order dated 9.1.2015 passed below Exhibit-22. As has been submitted by the learned Counsel for the petitioner, the order below Exhibit-22 has been excepted by the petitioner before the District Court at Osmanabad by filing Misc. Civil Appeal and the said appeal is pending. It is not the case of the petitioner that any interference has been caused by the first Appellate court in the order passed below Exhibit-22 by passing any interim or ad

interim order in the Misc. Civil Appeal filed by him against the said order. It is thus evident that the order dated 9.1.2015 passed below Exhibit-22 is still holding the field. In such circumstances, according to me, the challenge to the impugned order, which as I have stated herein above has been passed for giving effect to the earlier order passed below Exhibit-22, would not sustain. Thus, there appears no substance in the writ petition. Hence, following order.

ORDER

. The Writ Petition is rejected.

(P.R.BORA,J.)

bdv/