

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

921 APEAL FROM ORDER NO. 87 OF 2015
WITH CA/12157/2015 IN AO/87/2015

LAXMAN GANPAT DESHMUKH AND OTHERS
VERSUS
MOHAN DAMU DESHMUKH AND OTHERS

...

Advocate for Petitioners : Mr. Shelke Shivaji T.
Advocate for Respondents 1 to 4: Mr. S. K. Shinde

CORAM : V. K. JADHAV, J.

DATE : 16th March, 2016

PER COURT :

1. Being aggrieved by the order passed below Exh.7 in Regular Civil Appeal No.61/2014, original respondents/plaintiffs have preferred this appeal.

2. Brief facts giving rise to the present Appeal from Order are as follow:

The appellants/original plaintiffs instituted a suit bearing RCS No. 77/2011 for partition and separate possession and the said suit came to be decreed, confirming appellants' 1/2 share in the suit property. Being aggrieved by the same respondents/original defendants preferred appeal bearing Regular Civil Appeal No.61/2014 and also submitted application Exh.7 therein for stay and restraining appellants/plaintiffs from carrying out house construction in the suit property at

Survey No. 5/1. The lower appellate court has not stayed the operation of the decree, however, by allowing application Exh.7, restrained the appellants/plaintiffs from carrying out any constructions over the suit land Survey No. 5/1 till decision of the appeal. Hence this appeal.

3. Learned counsel for the respondents/original defendants submits that during the pendency of the suit, application at Exh.34 came to be submitted before the trial Court and the learned Judge of the trial court has directed the parties to maintains status quo till disposal of the suit. The learned counsel further submits that the said order of directing parties to maintain status quo remained in force till disposal of the suit.

4. The learned counsel for the parties agree that the appeal can be directed to be disposed of expeditiously, preferably before commencement of the summer vacation, by directing the parties to maintain status as on today in respect of the suit land Survey No.5/1. In view of this, following order is passed.

O R D E R

i. Impugned judgment and order dated 17.07.2015 below

Exh.7 in Regular Civil Appeal No.61/2014 passed by the learned Additional Sessions Judge, Sangamner is hereby quashed and set aside.

ii. The parties are directed to maintain status quo as on today in respect of the suit land Survey No.5/1 till disposal of the Regular Civil Appeal.

iii. The lower appellate court is hereby directed to dispose of the appeal expeditiously, preferably before commencement of the summer vacation.

iv. The parties to appear before lower appellate court on 28.03.2016.

5. This court has not expressed any opinion on merits. All points on merits are kept on.

6. Appeal from order is accordingly disposed of. Civil application also stands disposed of.

(V. K. JADHAV, J.)

JPC