

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5300 OF 2012

Shriram S/o. Arjun Sakhare
and others

... Petitioners.

Versus

Arjun S/o. Gopinath Sakhare
and others

... Respondents.

. . .
Mr. Abhijit G. Choudhari, Advocate for Petitioners.
Respondent Nos.1 to 5 Served.
. . .

CORAM : V. L. ACHLIYA, J.
DATE : 15th APRIL, 2016.

PER COURT:

1] Heard.

2] Perused the order passed by the trial Court as well as the Appellate Court. There are concurrent findings of facts recorded by both the Courts below. There are no substantial grounds made out to interfere with the order passed by Court below in exercise of the powers under Article 227 of the Constitution of India.

3] Both the Courts below have specifically observed that, during the pendency of the suit, if the respondents create any third party interest, same shall be subject to the decision in the suit and more particularly Section 52 of the Transfer of Property Act.

4] Learned counsel for the petitioners submits that, the trial Court has made certain observations while deciding the application for temporary injunction which according to him may affect the merits of the matter. The observations made while deciding the application for temporary injunction are always limited to the extent of deciding such application and to examine as to whether any prima-facie case exists. Such observations shall have no bearing upon the decision of the case on merit. The Appellate Court has also observed in the order that, no observations recorded by the learned trial Court in the application for temporary injunction shall have effect on the decision of case on merit. In view of this, there is no merit in the petition. Petition is dismissed. No order as to costs.

**[V. L. ACHLIYA]
JUDGE**