

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

**CIVIL APPLICATION NO. 14827 OF 2015
IN
WRIT PETITION NO. 4521 OF 2011**

Bhimashankar Malikarjun Mahmane
(Since Deceased) Through L.Rs. and Others ..APPLICANTS

VERSUS

Trimbak Ganpat Kharge
(Since Deceased) Through L.Rs. ..RESPONDENTS

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Mr. S.S. Chaudhary, Advocate for applicants.
Mr. V.M. Humbe, Advocate for Respondent Nos.1 to 7 and 9 to 12.

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**CORAM : RAVINDRA V. GHUGE, J.
DATED : 12th FEBRUARY, 2016**

ORAL ORDER :

1. The applicants are the original petitioners. The petition is pending in this Court from 2011. Neither has the petition been admitted nor has interim relief been granted.

2. Mr. Chaudhary, learned Counsel for the applicant submits that the respondents are likely to create a third party interest in the

property at issue and are likely to frustrate the case of the petitioners which would also render the petition infructuous. It is therefore prayed that the non-applicants be restrained from creating third party interest in Survey No. 610/A admeasuring 1 Acre and 9 Gunthas at Ieet, Tq. Bhoom, Dist. Osmanabad.

3. Mr. Humbe, learned Counsel for the non-applicant submits that the applicants-petitioners have been unsuccessful in their previous rounds of litigation. Though the writ petition has been filed on 17.06.2011, neither has the petition been admitted nor has any interim relief been granted to the petitioner.

4. He further submits that if this application is allowed, the petitioners would succeed in getting interim relief indirectly which the petitioners have failed to obtain directly.

5. I have considered the submissions of the learned Counsels.

6. There is no dispute that the petition preferred in 2011 is yet to be admitted and no interim relief has been granted to the petitioner. In this back drop, restraining the non-applicants from creating third party interest would be an order which is passed purely on assumptions and on the apprehension of the petitioners. The prayer for interim relief of the petitioners is still to be considered by this Court.

7. In the light of the above, I am of the view that this petition can be disposed of with a direction that in the event the non-applicants are desirous of creating third party interest in Survey No. 610/A admeasuring 1 Acre and 9 Gunthas at Ieet, Tq. Bhoom, Dist. Osmanabad, they shall keep the prospective purchaser informed about the pending proceedings and the said transaction or creation of third party interest shall be subject to the result of the petition.

(RAVINDRA V. GHUGE, J.)