

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3117 OF 2016

Smt. Namrata Suraj Ghorpade & Petitioners
Anr.

Vs

Mr Sachin Sambhaji Ghorpade & .. Respondents
Anr.

WITH

WRIT PETITION (ST) NO.7941 OF 2016

WITH

WRIT PETITION (ST) NO.8646 OF 2016

Mr Sachin Sambhaji Ghorpade & Petitioners
Anr.

Vs

Smt. Namrata Suraj Ghorpade & .. Respondents
Anr.

Mr. Ajay A. Joshi, Advocate for Petitioners in WP/3117/2016 and Respondents in WP/ST/7941/16 and WP/ST/8646/2016 .

Mr. S.S.Inamdar i/b S.S.Gajul, Advocate for Respondents no.1 and 2 in WP/3117/2016 and Petitioners in WP/ST/7941/2016 and 8646/2016.

CORAM : R.G.KETKAR,J.

DATE : 20/04/2016

PC:

1. Writ Petition (ST) No. 7941 of 2016 and W.P.(ST) No.8646 of 2016 are not on Board. At the request of learned counsel for the parties, they are taken up for admission.

2. Heard Mr. Ajay A. Joshi, learned counsel for the petitioners in W.P. No.3117 of 2016 and for respondents in W.P.(ST) No.7941

of 2016 and W.P.(ST) No. 8646 of 2016, Mr. Inamdar, learned counsel for the respondents in W.P.No.3117 of 2016 and for petitioners in W.P. (ST) No.7941 and W.P.(ST) No. 8646 of 2016, at length. Rule. Learned counsel for the respondents waive service. At the request and by consent of the parties, Rule is made returnable forthwith and Petitions are taken up for final hearing.

3. Writ Petition No.3117 of 2016 is instituted by defendants no. 3 and 4 against the judgment and order dated 7.5.2015 passed by the learned Adhoc District Judge-2, Solapur in Misc. Civil Appeal No.66 of 2015. By that order, the learned District Judge allowed the Appeal preferred by the respondents, hereinafter referred to as 'plaintiffs', and quashed and set aside the judgment and order dated 31.3.2015 passed by the learned 2nd Jt. Civil Judge, Sr. Dn., Solapur below Exhibit 24 in Regular Civil Suit No.802 of 2013. The learned District Judge dismissed the application Exh.24 taken out by the petitioners, hereinafter referred to as 'defendants no.3 and 4', for mandatory injunction directing the plaintiffs to remove lock put by them on suit shop more particularly described paragraph 1 of the plaint.

4. Writ Petition (ST) No.7941 of 2016 is preferred by the plaintiffs challenging the Judgment and order dated 31.3.2015 passed by the learned 2nd Jt Civil Judge, Sr. Dn., Solapur below Exhibit 57 in Regular Civil Suit No.802 of 2013 and Judgment and

order dated 22.12.2015 passed by the learned District Judge, Solapur in Misc. Civil Appeal No.88 of 2015. By these orders, the Courts below dismissed the application Exhibit-5 made by the plaintiffs seeking mandatory injunction directing defendants no.3 and 4 to remove lock put up by defendants no. 3 and 4.

5. Writ Petition (ST) No. 8646 of 2016 is instituted by the plaintiffs challenging the Judgment and order dated 31.3.2015 passed by the learned 2nd Jt. Civil Judge, Sr. Dn., Solapur below Exhibit 5 in Regular Civil Suit No.802 of 2013 and Judgment and order dated 22.12.2015 passed by the learned District Judge, Solapur in Misc. Civil Appeal No.87 of 2015. By these orders, the Courts below dismissed the application Exh.5 taken out by them for temporary injunction restraining defendant no. 3 from obstructing possession of the plaintiffs over the suit shop.

6. Mr. Joshi states that defendant no.3 is present in the Court. She is mother of defendant no.4, who is minor. Upon taking instructions, Mr. Joshi states that defendants no.3 and 4 have no objection for setting aside Judgment and order dated 7.5.2015 passed by the learned Adhoc District Judge-2, Solapur in Misc. Civil Appeal No.66 of 2015 and for restoration of that appeal for de novo consideration. He has also no objection for setting aside orders dated 22.12.2015 passed by the learned District Judge, Solapur in Misc. Civil Appeal No.88 of 2015 and Misc. Civil Appeal No.87 of 2015 and restoration of these Appeals. Mr. Joshi submits

that all the three appeals may be clubbed together and the learned Principal District Judge may be directed to assign the Appeals to one and the same Court for deciding the same together.

7. Mr. Inamdar, upon taking instructions from the instructing Advocate, has consented for adopting this course.

8. In view thereof, by consent of the parties, the Judgment and order dated 7.5.2015 passed by the learned Adhoc District Judge-2, Solapur in Misc. Civil Appeal No.66 of 2015 and judgment and orders dated 22.12.2015 passed by the learned District Judge, Solapur in Misc. Civil Appeal No.88 of 2015 and Misc. Civil Appeal No.87 of 2015 are set aside and these Appeals are restored to the file of learned District Judge. Learned Principal District Judge shall club all these Appeals and assign the same to one and the same Court for deciding the same together. All contentions of the parties on merits are expressly kept open.

9. Learned counsel appearing for the parties agree that they will appear before the learned District Judge on 13.6.2016 and for that purpose, no fresh notice be issued to them. Learned District Judge is requested to decide these Appeals as expeditiously as possible and preferably within four weeks time from the date of appearance of the parties.

10. Both parties agree that they will not remove lock on the suit premises during the pendency of the Appeals.

11. Rule is made absolute in all the petitions accordingly, with no order as to costs.

(R.G.KETKAR, J.)