

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Revision Application NO. 383 OF 2009

MR.ANAND KUMAR AGARWAL AND ANR. ...Applicants
Versus
MR.SANTHARAM KASINATH TAKUR ...Respondent

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Mr. Ajay K.J. Panicker, Advocate, for the Applicant.
None for the Respondent.

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CORAM : R. G. KETKAR, J.

DATE : 31st MARCH, 2016

P.C.

1. Heard Mr. Ajay Panicker, learned Counsel for the applicants at length. None appears for the respondent.

2. By this application under Section 115 of Code of Civil Procedure, 1908 (for short, 'CPC'), the applicants, hereinafter referred to as the 'plaintiffs' have challenged the judgment and order dated 6.4.2009 passed by learned District Judge-1, Vasai in Misc. Civil Appeal No.13/2007. By that order, learned District Judge allowed the appeal preferred by the defendants and quashed and set aside the judgment and order dated 22.5.2003 passed by learned Civil Judge, Senior Division, Palghar below

Exh.5 in Special Civil Suit No.50/2002. Learned District Judge directed both the parties to maintain status quo till the disposal of the suit.

3. Mr. Panicker invited my attention to the order passed by the learned trial Judge on 22.5.2003 and in particular points framed in paragraph-4. He submitted that the learned trial Judge answered the points in favour of the 'plaintiffs'. The learned trial Judge issued injunction restraining defendant Nos.1 to 4 from disposing, selling, alienating, transferring, encumbering, parting with possession or creating third party interest with respect to the entire suit land in any manner till final disposal of the suit. Aggrieved by that decision, defendant Nos.1 to 4 preferred appeal. He invited my attention to the points framed by the learned District Judge in paragraph-8 and submitted that considering the points framed by the learned District Judge and findings recorded therein, the learned District Judge has virtually decided the main suit on merits. He submitted that in fact during pendency of that appeal there was no adinterim order in favour of defendant Nos.1 to 4. He, therefore, submitted that the impugned order deserves to be set

aside.

4. I have considered the submissions advanced by Mr.Panicker. I have also perused the material on record.

5. As noted earlier, the learned trial Judge allowed the application made by the plaintiffs. Aggrieved by that decision, defendant Nos.1 to 4 preferred appeal. By order dated 6.4.2009, the learned District Judge allowed the appeal and set aside the trial Court's order and directed both the parties to maintain status quo till disposal of the suit. Aggrieved by that decision, the applicants instituted Civil Revision Application in this Court. On 17.8.2009, this Court issued notice to the respondents returnable on 22.9.2009. In the meanwhile, status quo as of that date was ordered to be maintained by the respondents. The matter was thereafter placed for admission on 19.11.2009. After recording that the service was complete, Civil Revision Application was ordered to be listed for admission on 10.12.2009. However, ad-interim order dated 17.8.2009 was not continued. Ultimately on 20.1.2010, Civil Revision Application was admitted however no interim order was granted. With the result, the order directing both the parties to maintain status

quo is operating for more than six and half years. In view of passage of time, I do not find that any case is made out for interfering with the impugned order. At the same time, it requires to be clarified that the learned trial Judge will decide the suit uninfluenced by the observations made in the impugned order and on the basis of the evidence on record and in accordance with law. All contentions of the parties are expressly kept open. Subject to that, Civil Revision Application fails and the same is dismissed. Rule is discharged with no order as to costs. Having regard to the fact that the suit is of the year 2002, the learned trial Judge is requested to dispose of the suit as expeditiously as possible and preferably on or before 31.12.2016. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)