

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8808 OF 2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Drupad S. Patil for the petitioner

None for the respondent

CORAM : K. K. TATED, J.

DATE : JULY 28, 2016

P.C.:

1 Not on board. At the request of Advocate for the petitioner, matter is taken on board for urgent orders.

2 By this Petition under Article 227 of Constitution of India, the petitioner defendant challenges the order dated 16.6.2016 passed by District Judge-3, Solapur in Civil Misc. Appeal No.55 of 2016 restraining petitioner defendant from interfering with the possession of the respondent plaintiff over the suit property during the pendency and final disposal of Regular Civil Suit No.66 of 2014.

3 The learned counsel for the petitioner submits that initially the respondent plaintiff

preferred application below Exhibit 5 in Regular Civil Suit No.66 of 2014 for an order of injunction. Same was rejected by the Trial Court by order dated 2.3.2016. Thereafter respondent plaintiff preferred Civil Misc. Appeal No.55 of 2016 and same was allowed. He further submits that being aggrieved by the orders passed by the appellate court on 16.6.2016, petitioner defendant filed application below Exhibit-15 in Civil Misc.Appeal No.55 of 2016 for staying the operation and implementation of the impugned order dated 16.6.2016. On that application, appellate court passed order on 27.6.2016 directing both the parties to maintain status quo. Paragraph 3 of the said order reads thus:

“3. Considering that while passing the above said order granting injunction, it is prima facie observed that the plaintiff is in possession of the suit property and that is why injunction has been granted in favour of the appellant. However, considering that the unsuccessful party has right to challenge the order. In the circumstances, it is necessary that both the parties be directed to maintain status-quo in respect of the possession over the suit property for the period of two weeks from today.”

4 Considering the submissions made by the learned counsel for the petitioner, impugned order dated 16.6.2016 and order dated 27.6.2016 below Exhibit 15, I am satisfied that the petitioner has

made out a case for following order :

- a) Office is directed to issue notice before admission to the respondents, returnable after 8 weeks.
- b) In addition to usual mode of service, petitioner is permitted to serve Respondents along with entire proceedings by private notice either by registered post A.D. and/or by hand delivery and file Affidavit of Service to that effect.
- c) The petitioner is directed to remove all office objections within four weeks from today, failing which the Writ Petition shall stand dismissed without further reference to the court.
- d) Interim protection granted by appellate court on 27.6.2016 below Exhibit-15 in Civil Misc. Appeal No.55 of 2016 to continue till next date.

JUDGE