

Sequeira

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

WRIT PETITION NO. 8293 OF 2014

Rajendarakumar Balu Mane

.. Petitioner

Vs

Mahavir Annaso Patil & ors.

.. Respondents

Mr.Ashutosh M.Kulkarni, for the Petitioner.

Mr.Prashant P.Kulkarni, for Respondent Nos.1 and 2.

Mr.A.B.Desai, for Respondent No.3.

***CORAM : N.M.Jamdar, J.
Tuesday, 30 August 2016.***

P.C. :

By this Petition the Petitioner challenges the order passed by the District Judge Kolhapur wherein the Miscellaneous Civil Appeal No.191 of 2013 filed by the Respondents was partly allowed.

2. On 22 December 2014, following order was passed -

'1. The learned counsel appearing for the Petitioner in view of the event which has transpired during pendency of the above Petition seeks leave to amend the above Petition so as to bring the said subsequent event on record. The learned counsel for the Petitioner tenders draft amendment. By the said draft amendment, the Petitioner seeks to add subsequent purchaser as Respondent No.3 and to incorporate Paragraph Nos.8.1 to 8.4 after Paragraph No.4 and the consequential prayer by way of prayer clause (d-i).

2 In view of the fact that the event which has occurred pending the above Petition is sought to be brought on record, the Petitioner is granted leave to amend in terms of the draft amendment handed in. Amendment to be carried out in the course of the day. List the above Petition for admission on 12/01/2015. The parties including the newly added Respondent No.3 are directed to maintain status quo till then.'

3. As regards the original Defendants that is Respondent Nos.1 and 2 are concerned, they have already created third party rights in favour of the added Respondent. As regards the added Respondent, Respondent No.3 is concerned, the learned counsel for the added Respondent submits, on instructions, that no order of Court restraining the added Respondent is necessary as Respondent No.3 is not interested in creating any third party rights during the pendency of the suit. This statement of the Respondent No.3 of not creating third party rights is accepted. This statement will continue till the disposal of the suit.

4. Therefore, the position as on today is that there is no order necessary against Respondent Nos.1 and 2 since they have already divested themselves of all rights in the property and the added Respondent has made the statement above which is accepted. All contentions on merits of the suit are kept upon. The Writ petition is accordingly disposed of.

(N.M.Jamdar, J.)