

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 9977 OF 2013

Pandurang Chandru Pukale And Ors ...Petitioners

Versus

Jyotiram Chandu Pukale ...Respondent

**WITH
CIVIL APPLICATION NO.223 OF 2014
IN
WRIT PETITION NO.9977 OF 2013**

....

Mr. Ajay A. Joshi, Advocate for Petitioner.

Mr. Manoj A. Patil, Advocate for Respondent No.1

....

CORAM : R. G. KETKAR, J.

DATE : 18th APRIL, 2016

P.C.

1. Not on board. At the request of learned Counsel appearing for the parties, taken up for admission.

2. Heard Mr. Ajay Joshi, learned Counsel for the petitioners and Mr. Manoj Patil, learned Counsel for respondent No.1, at length.

3. Mr. Joshi orally applies for deleting respondent Nos.2 to 16 from this petition on the ground that no relief is claimed

against them. Leave to delete respondent Nos.2 to 16 is granted. Amendment shall be carried out forthwith.

4. Rule. Mr. Patil waives service. At the request and by consent of the parties, Rule is made returnable forthwith and the petition is taken up for final hearing.

5. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the judgment and order dated 17.10.2013 below Exhibit-42 and order dated 29.4.2013 below Exhibit-22 passed by learned Ad-hoc District Judge, Sangli in Civil Appeal No.102 of 2013. By order dated 29.4.2013, learned District Judge declined to extend the order of status quo passed below Exhibit-6 on 30.3.2013. By order dated 17.10.2013 below Exhibit-42, learned trial Judge declined to grant any interim order pending appeal on the ground that the petitioner can apply under Section 144 of Code of Civil Procedure, 1908 (for short, 'CPC') for restitution. Mr. Patil submits that instead of granting status quo, the Court may direct partition proceedings to go on and the possession of the respective parties may not be disturbed. He further submits that application for condonation of delay is pending from 2013 and the learned trial Judge should

be directed to dispose of the said application expeditiously.

6. Having regard to the fact that the suit is for partition and the decree of partition is passed, I find that the request made by Mr.Patil is reasonable. Hence pending appeal, partition proceedings shall go on, however, actual physical possession to the parties shall not be distributed. Learned District Judge is requested to decide the application for condonation of delay in filing appeal as expeditiously and preferably on or before 13.6.2016. Parties agree that they will appear before the learned District Judge on 25.4.2016 and for that purpose no fresh notice be issued to them. Rule is partly made absolute with no order as to costs. Civil Application No.223 of 2014 for vacating the ad-interim relief in Writ Petition does not survive and stands disposed of. Order accordingly.

(R. G. KETKAR, J.)