

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5000 OF 2015

DHANRAJ S/O SHAMRAO KUMBHARE
VS

HEMRAJ S/O CHINTAMANRAO CHAWDHARY AND ANOTHER

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Masood Shareef, Advocate for the petitioner.
Shri S. A. Banik, Advocate for the respondent Nos.1 & 2.

CORAM : A.S. CHANDURKAR, J.
DATED : AUGUST 08, 2016.

The petitioner who is the appellant in R. C. A. No.121/2012 is aggrieved by the order passed by the appellate Court on the application for impleading a subsequent purchaser of the suit property as a party to the appeal. The petitioner had filed the suit for specific performance of agreement dated 1-7-2004. The suit was partly decreed by directing refund of the earnest amount. Being aggrieved the petitioner has filed the aforesaid appeal. During pendency of this appeal, the respondents on 30-3-2013 executed a sale deed of the suit property in favour of a third party. On getting the knowledge of the same, the petitioner sought addition of the subsequent purchaser as a party to the appeal. The appellate Court by observing that the transaction was hit by *lis pendens* rejected the application.

After hearing the respective Counsel for the parties, it can be seen that the appellate Court has in para 6 of the impugned order clearly observed that the transfer of the property was during pendency of the appeal and thus, hit

by *lis pendens*. It has been further observed that if the decree for specific performance is passed, the same can be enforced against the subsequent purchaser. In the light of these observations the interests of the petitioner are duly protected. Hence, I do not find any case made out to interfere in writ jurisdiction. The writ petition is, therefore, dismissed. No costs.

JUDGE

/MULEY/

C E R T I F I C A T E

“ I certify that this Order uploaded is a true and correct copy of original signed Order.”

Uploaded by : Sanjay B. Muley,
Personal Assistant.

Uploaded on : 09-08-2016