

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 14581 OF 2016
WITH
CIVIL APPLICATION NO. 1574 OF 2017
IN
APPEAL FROM ORDER NO. 90 OF 2015

Indrabai w/o Ambadas Pawar

Applicant

V E R S U S

Shaikh Gulam Hussain s/o Sk.
Noormiya and others

Non-Applicants

Mr. C.V. Dharurkar, Advocate for the applicant
Mr. G.K. Thigale, Advocate for
Non-Applicants Nos. 2-B to 2-D and 3-A to 3-D

CORAM : S.V.GANGAPURWALA, J.

DATE : 17TH FEBRUARY, 2017

PER COURT :

1. Heard Mr. Dharurkar, learned counsel for the applicant and Mr. Thigale, learned counsel for Non-Applicant Nos. 2-B to 2-D and 3-A to 3-D.

2. Mr. Dharurkar, learned counsel for the applicant submits that the condition of the present

applicant is petiable. She is being looked after by her nephew. She has no independent source of income. The undertaking was given at the time of hearing of the Appeal. Considering the circumstances existing and as the Appellate Court while remanding the matter back to the trial Court had suggested to dispose of the suit within four months, but two years have already lapsed and there is no progress in the matter. The learned counsel submits that the applicant be allowed to use part of the suit property for commercial purpose.

3. Mr.Thigale, learned counsel for the Non-Applicant Nos. 2-B to 2-D and 3-A to 3-D opposes the said request.

3. It appears that there was blanket injunction against the applicant herein for constructing on the premises. The same was modified by this Court in appeal and the applicant was allowed to make the construction for residential purpose. It would not be appropriate now to change the conditions imposed which

was pursuant to the undertaking of the applicant.

4. In the result, the trial Court shall dispose of the suit expeditiously and preferably within a period of nine months from receipt of this order. Necessary steps be taken by the parties and the parties shall co-operate in expeditious disposal of the suit. The plaintiff shall take steps to serve all the defendants in the suit expeditiously.

5. Both the Civil Applications are disposed of.
No costs.

(S.V. GANGAPURWALA, J.)