

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4438 OF 2017

Hausrao Namdeo Parkale and Others ..PETITIONERS

VERSUS

Yogesh Eknath Parkale ..RESPONDENT

....

Mrs. Anjali Dube (Bajpai), Advocate for petitioners.

Mr. R.R. Karpe, Advocate for respondent.

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CORAM : M.S. SANKLECHA, J.

DATED : 12th APRIL, 2017

ORDER :

1. This petition challenges the order dated 01st February, 2017 passed by the Joint Civil Judge, Junior Division, Shrigonda. By the impugned order, the application of the respondent (original plaintiff) seeking police protection so as to construct the compound wall was allowed. This was as consequence of the interim order dated 09th December, 2015 passed by him in favour of the respondents (original plaintiff) to construct the building wall.

2. The petitioners' grievance is that the impugned order for police protection was not necessary, particularly as it's appeal against earlier order

dated 09th December, 2015 as also it's an application for ad-interim stay to the impugned order dated 09th December, 2015 which allow the respondents to carryout the construction including compound walls is pending disposal. Thus it is submitted that the application could have been adjourned till the disposal of it's application for interim stay of order dated 09th December, 2015 is disposed of by the Appeal Court.

3. After the matter was heard for sometime, a consensus has been arrived at between the parties to the effect that the petitioners would move to the Appellate Court on it's application of ad-interim stay against the order dated 09th December, 2015 passed by the Trial Court which is pending. The parties have agreed that if the Appellate Court takes up the hearing of the petitioner's application for ad-interim/interim stay to the order dated 09th December, 2015, both would attend the same and make their respective representation. On the Appellate Court deciding the interim application filed by the petitioners in respect of the basic order dated 09th December, 2015, the consequent impugned order dated 01st February, 2017 would either be confirmed or rendered in abeyance. This it is submitted by the counsel would bring to rest/settle the dispute for the interim.

4. In the above view, it is agreed between the parties that they shall appear before the Appellate Court on 18th April, 2017 at about 11.00 a.m. On that date, the Appellate Court, depending upon its convenience, will either hear the parties on that date or fix a date convenient to it to hear the parties on the ad-interim/interim application made by the present petitioner of the order dated 09th December, 2015.

5. The above unusual direction to the Appellate Court has been given as the petitioner has submitted that interim application made to the Appellate Court is not being taken up for hearing inspite of repeated requests by them. This possibly on account of pressure of work. Be that as it may, once the Appellate Court decides the stay application filed by the petitioner, for the interim issue would stand settled between the parties one way or the other.

6. In view of the above consensus arrived at between parties, Mrs. Dube, learned Counsel for the petitioner seeks to withdraw this petition.

7. Therefore the petition is disposed of as withdrawn. Needless to state that the Appellate Court to consider the application for ad-

interim/interim relief filed by the petitioner from order dated 09th December, 2015 on its own merits, without in any manner being influenced by this order. Parties to act on authenticated copies of the order.

(M.S. SANKLECHA, J.)

SSD