

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6127 OF 2017

VINAY SHANTILAL MUTHA
VERSUS
PREMCHAND BADRILAL MUTHA AND OTHERS

...
Advocate for Petitioner : Shri V.J.Dixit, Sr. Advocate i/b Shri
Deshmukh Vijay Vasantrao
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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 27, 2017
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PER COURT :-

1. I have considered the strenuous submissions of Shri Dixit, learned Sr. Advocate and Shri Deshmukh, learned Advocate for the petitioner.

2. The Misc. Civil Appeal No.5 of 2017 is pending before the appeal Court. The respondents in the said proceedings are yet to be served. The petitioner has a grave and serious apprehension that during the pendency of the Misc. Civil Appeal by which protective orders have been sought by the petitioner, the respondents are likely to dispose off the suit properties, keeping in view that they have already disposed off one portion of the suit property.

3. By this petition, the petitioner prays that during the pendency of the Misc. Application before the Appeal Court and during the pendency of restoration application before the trial Court, which has dismissed the suit in default, protective orders may be granted by this Court.

4. I am of the view that this request can be made before the learned Appeal Court. If there is any difficulty for the petitioner to serve the respondents in the pending proceedings, the Appeal Court may grant permission to the petitioner to serve the respondents by substituted service in the form of paper publication at the places of residence of such respondents. If such an application is made, the appeal Court may grant the said liberty expeditiously.

5. Needless to state, the Appeal Court would also consider the prayer of the petitioner for grant of protection with regard to it's apprehension noted above.

6. This petition is, therefore, disposed off.

(RAVINDRA V. GHUGE, J.)

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