

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.6760 OF 2012

Mirza s/o Shamshoddin Pathan,
deceased, through LRs

Petitioners

Versus

Bhaguram s/o Sadashiv Dhormare,
deceased, through L.Rs

Respondents

Mr.M.H.Chandanshiv, advocate for the petitioners
Mr.M.L.Dharashive, advocate for Respondent No.3.
Mr.S.P.Urgunde, advocate for Respondent No.4.

CORAM : S.B.SHUKRE, J.
DATE : 02nd February, 2017

PER COURT:

1 Heard learned Counsel for petitioners and learned Counsel appearing for Respondent No.3 as well as Respondent No.4. None appears for Respondent No.2. It appears that he does not contest the claim.

2 After hearing learned Counsel for contesting parties, it appears that interest of justice would be served if the parties are directed to maintain *status quo* in respect of partition and possession of the property, which is the subject matter of R.C.S.No.13/2009, till this civil suit is disposed of finally.

3 It is the contention of petitioners that this property has been made subject matter of partition and possession as per the decree passed in R.C.S. No.57/2004 brought against Bhaguram,

father of Respondents No.2 and 4 and in this suit, petitioners, in whose favour agreement to sell of the suit property was executed by deceased Bhaguram on 17.04.2003, well before filing of R.C.S. No.57/2004, were not made parties. Respondents No.2 and 4 were consenting parties to the agreement to sell. Of course, learned Counsel for Respondent No.4 submits that the sale deed in respect of suit property was executed during pendency of R.C.S. No.57/2004 and, therefore, it would be hit by the rule of *lis pendens*.

4 These submissions require consideration and adjudication by the Civil Court and, therefore, if the decree passed in R.C.S. No.57/2004 is executed, it may involve complications as well as multiplicity of the proceedings. This is why, I am of the view that interest of justice would be served by directing the parties to maintain *status quo* for certain period.

5 In the result, writ petition is disposed of by issuing following directions:

- (i) The trial Court is directed to decide R.C.S. No.13/2009 finally, in accordance with law, within a period of six months from the date of the order.
- (ii) Both the parties shall cooperate the trial Court for disposal of the suit.
- (iii) R.C.S. No. 57/2004 shall be decided finally, in

accordance with law.

- (iv) The contesting parties shall maintain *status quo* in respect of the suit property, which is the subject matter of R.C.S. No.13/2009.

6 Writ Petition is disposed of. No costs.

S.B.SHUKRE
JUDGE

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