

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

922 APPEAL FROM ORDER NO. 30 OF 2017

RAGHUNATH RAMRAO TALEKAR AND ANOTHER
VERSUS
SUDAM ARJUNRAO BHOPALE

...

Advocate for Petitioners : Mr. Vikram R. Dhorde.

Advocate for Respondents : Mr. Yogesh P. Deshmukh.

...

CORAM : **V. K. JADHAV, J.**

DATE : 01st August, 2017.

ORDER:

. Being aggrieved by the order passed by the learned Ad-hoc District Judge-1, Beed dated 15th June, 2017 below Exhibit 5 in Regular Civil Appeal No.69 of 2017, the Appellants before the lower Appellate Court / original Plaintiffs have preferred this appeal.

2 The learned counsel for Appellants / original Plaintiffs submits that the Appellants / Plaintiffs have instituted Regular Civil Suit No.242 of 2011 before the Civil Judge Junior Division, Georai for the relief of declaration of ownership and the decree of perpetual injunction in respect of the suit land situated at Madalmohi, Taluka Georai, District Beed. The learned counsel submits that during the pendency of the said suit, the Appellants / Plaintiffs have filed an application Exhibit 5 for issuance of the order of temporary injunction to protect the

possession of the Appellants / Plaintiffs over the suit land till the disposal of the suit and the learned Judge of the Trial Court by order dated 30th April, 2012 allowed the said application and protected the possession of the Appellants / Plaintiffs over the suit land till the disposal of the suit. Being aggrieved by the same, the Respondent / original Defendant has preferred Miscellaneous Civil Appeal No.50 of 2012 before the District Court and the learned District Judge by judgment and order dated 2nd August, 2012 dismissed the said appeal. Being aggrieved by the said order, the Respondent / original Defendant has approached this Court by filing Writ Petition No.7104 of 2012. However, this Court by order dated 27th September, 2012, dismissed the said writ petition. Though the Trial Court has dismissed the suit filed by the Appellants / Plaintiffs by judgment and decree dated 29th March, 2017, the Appellants' / Plaintiffs' possession over the suit land was protected for near about five years. However, the lower Appellate Court has not considered the same and rejected the application filed by the Appellants / Plaintiffs Exhibit 5 seeking the order of issuance of temporary injunction to protect their possession over the suit land till the disposal of the appeal.

3 The learned counsel submits that instead of going into the merits of the appeal, the parties may be directed to maintain the

status-quo till the disposal of the appeal before the lower Appellate Court and the lower Appellate Court in that event may be directed to dispose of the appeal as expeditiously as possible.

4 The learned counsel for Respondent / original Defendant, on instructions, accepts the submission to the extent that the lower Appellate Court may be directed to dispose of the pending appeal expeditiously and till the disposal of the said appeal the parties would maintain the *status-quo*.

5 In view of the above, this appeal can be disposed of by directing the lower Appellate Court to dispose of the appeal expeditiously and till the disposal of the said appeal, the parties to maintain the *status-quo* in respect of the suit property as on today. Hence the following order:

ORDER

- I. The appeal is hereby partly allowed. No costs.
- II. The order passed by the learned Ad-hoc District Judge-1, Beed dated 15th June, 2017 below Exhibit 5 in Regular Civil Appeal No.69 of 2017, is hereby quashed and set aside and instead the parties are

directed to maintain the *status-quo* as on today with the following directions:

The lower Appellate Court shall dispose of the pending appeal bearing Regular Civil Appeal No.69 of 2017 on its own merits as expeditiously as possible preferably within a period of three months from the date of preparation of the paper-book.

III. The appeal is accordingly disposed of.

IV. Pending civil application stands disposed of.

[V. K. JADHAV, J.]

ndm