

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

WRIT PETITION NO. 4870 OF 2017

RAHUL SHANTARAM SONWANE
VERSUS
RAMESH DAULAT PATIL AND OTHERS

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Advocate for Petitioner : Shri Wani Girish V.
Advocate for Respondent 2 : Shri Patil Vijay B.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 12th September, 2017

Per Court:

1 The Petitioner is aggrieved by the judgment and order dated 10.10.2016 passed by the Appellate Court by which his application for interim protection (Exhibit-6) has been dismissed and Regular Civil Appeal No.109/2016 has been expedited.

2 Shri Wani, learned Advocate for the Petitioner, has strenuously criticized the impugned order. He has drawn my attention to the nine grounds formulated by him in the memo of the petition. He has also drawn my attention to the observations of the Appellate Court in paragraph 8 of the impugned order. Based on these submissions and contentions, he prays for an interim protection in the nature of directing the Respondents not to create third party interest until the appeal pending

before the Appellate Court is decided.

3 Shri Patil, learned Advocate appearing for Respondent No.2, points out the order of this Court dated 28.10.2014 delivered in Appeal from Order No.41/2014 filed by the Petitioner herein. He contends that the Petitioner had canvassed these submissions for seeking an injunctory order against the Respondents/ Defendants. Even when the Special Civil Suit No.140/2013 was pending, this Court specifically refused interim relief to the Petitioner/ Plaintiff observing that a stale claim was put forth by the Plaintiff. By virtue of the observations in paragraph 6 of the order dated 28.10.2014, the interim relief was refused. He submits that at this stage, the case of the Petitioner is worsened by the fact that his suit has been dismissed by the judgment dated 22.04.2016 and the appeal is pending.

4 Shri Wani submits that there are certain observations on the existence of the Agreement to Sale in the judgment of the Trial Court which would eventually assist the Petitioner, if he succeeds in the appeal.

5 Having considered the submissions of the learned Advocates as are recorded in the foregoing paragraphs and taking into account the observations of this Court in the judgment dated 28.10.2014 in Appeal From Order No.41/2014, I do not find that the Petitioner has pointed out any change in circumstances so as to consider the prayer for interim protection. Since by the impugned order the Appellate Court has

expedited the appeal, I do not find that the impugned order could be termed as being perverse or erroneous.

6 Considering the above, this Writ Petition stands dismissed.

kps

(RAVINDRA V. GHUGE, J.)