

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3108 OF 2016

Gurbasappa @ Basavraj Revansiddhappa Kalshetti ... Petitioner
Vs.
Krishnasagar Virswami Mithapalli and others ... Respondents

Mr. P. M. Shah for Petitioner.
Mr. P. G. Sarda for Respondents No.2A to 2C.

CORAM : R. G. KETKAR, J.
DATE : JANUARY 10, 2017

P.C. :

Heard Mr. Shah, learned Counsel for petitioner and Mr. Sarda, learned Counsel for respondents No.2A to 2C at length.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the judgment and order dated 01.12.2012 passed by the learned III Joint Civil Judge, Senior Division, Solapur below exhibit-139 in Day Application No.15 of 2006. By that order, the learned trial Judge rejected the application for staying proceedings of Day Application No.15 of 2006 till final disposal of Regular Civil Suit No.1270 of 2000.

3. Mr. Shah submitted that during the pendency of application exhibit-139, respondent No.1 filed Miscellaneous Civil Application No.407 of 2012 before the learned Principal District Judge, Solapur under Section 24 of C.P.C. for transferring Regular Darkhast No.401 of 2000, Day Application No.15 of 2006 and Regular Civil Suit No.1270 of 2000 before one Court. By order dated 26.03.2013, the learned Principal District Judge allowed the application and ordered transfer of Regular Darkhast No.401 of 2000, Day Application No.15 of 2006 and

Regular Civil Suit No.1270 of 2000 pending in the Court of III Joint Civil Judge, Senior Division, Solapur (Shri R. V. Kokare) to the Court of Civil Judge, Senior Division, Solapur (Shri M. V. Morale). He submitted that as by subsequent order dated 26.03.2013, the learned Principal District Judge has transferred all the proceedings to one Court, pending the disposal of Regular Civil Suit No.1270 of 2000, proceedings of Day Application No.15 of 2006 should be stayed.

4. It is not possible to accede to this request. In fact, very purpose of filing application for staying Day Application No.15 of 2006 till the final disposal of Regular Civil Suit No.1270 of 2000 is achieved after passing of the order dated 26.03.2013. By order dated 26.03.2013, the learned Principal District Judge has transferred all the proceedings to one Court. Hence, no case is made out for invocation of powers under Article 227 of the Constitution of India. Petition fails and the same is dismissed.

(R. G. KETKAR, J.)

Minal Parab