

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9913 OF 2017

Abdul Razzak Sunesra	...Petitioner
Versus	
Anil Vijay Madgaonkar	...Respondent

Mr.J.Reis, Sr.Counsel a/w Mr.Chinmay Acharya I/b Susmit
Phatale for the Petitioner.
Mr.Surel Shah, for the Respondent.

CORAM: M.S.SANKLECHA, J
DATED: 14th September,2017

PC:-

1. Moved for urgent relief. This Petition challenges an order dated 16th August, 2017 passed by the District Judge-3 Satara. By the impugned order, the Petitioner's Appeal from the order of the Trial Court dated 31st May, 2017 rejecting the application for temporary injunction was upheld.

2. The Petitioner has filed a suit for a perpetual injunction restraining the Respondent from carrying out construction work which allegedly encroaches on a public road, blocking access/right of way of the Petitioner. This construction it

alleged is done without appropriate permissions being obtained from the local authorities.

3. In the above suit, the Petitioner took out an interim application seeking to restrain the Petitioner from constructing on the disputed suit land. The Trial court as well as the impugned order rejected the Petitioners application at the interim stage.

4. It is submitted by Mr.Reis for the Petitioner that the Respondent be restrained from carrying on construction on the disputed suit land till the disposal of the suit. It is submitted that construction is done without appropriate permissions being obtained.

5. On the other hand Mr.Shah, the learned Counsel for the Respondents, states that the construction work on the suit property is almost completed. Therefore, no interim stay is warranted.

6. The impugned order has been passed at an interim stage. The rights of the parties would be appropriately decided at the final hearing of the suit after detailed evidence is led by both sides. In the meantime, it would be appropriate that impugned order is not interfered at this stage. However, to adjust equities, it is made clear that any construction put up by the Respondents on the suit property, would be subject to the result of the suit. It is made clear that Respondent will not claim any equities on account of the construction work carried out on the suit property.

7. Parties are at liberty to move the Trial Court for early disposal of the suit. If such an application is made, the Trial Court will consider the same appropriately.

8. Accordingly, the Petition disposed of in the above terms.
No order as to costs.

(M.S.SANKLECHA, J.)