

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.14283 OF 2016

Vinayak Narayan Rajmachikar .Petitioner

Vs.

Vrajesh Navnitlal Shah & ors. .Respondents

Mr.S.G.Deshmukh i/b. Mr.S.A.Ghaisas, Advocate, for the Petitioner
Ms Jui A. Nerurkar, Advocate, for the Respondent No.5

CORAM : R.G.KETKAR, J.

DATE : 17.03.2017

P.C.

. Heard Mr. Deshmukh, learned counsel for the Petitioner
and Ms Nerurkar, learned counsel for the Respondent No.5.

2. By this Petition under Article 227 of the constitution of India, the Petitioner, hereinafter referred to as 'Plaintiff' has challenged the Judgment and Order dated 15.12.2015 passed by the learned 7th Jt.C.J.J.D., Pune below Exh.5 in R.C.S.No.165 of 2013 as also the Judgment and Order dated 22.07.2016 passed by the learned Ad-hoc District Judge-1, Pune in Misc. Civil Appeal No.21 of 2016. By these Orders, the Courts below rejected the Application made by the Plaintiff for temporary injunction restraining Defendant No.5 from issuing any

circular, taking any decision etc. or restraining Defendants No.1 to 4 from transferring the suit property in favour of Defendant No.5.

3. Mr. Deshmukh seeks leave to delete rest of the Respondents on the ground that Respondent No.5 is the only contesting Respondent. On the oral Application made by Mr.Deshmukh, leave to delete rest of the Respondents is granted. Amendment shall be carried out forthwith.

4. Rule. Ms Nerurkar waives service on behalf of the Respondent No.5. Having regard to the narrow controversy raised in this Petition as also at the request and by consent of the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

5. Ms Nerurkar states that she has received telephonic instructions from Respondent No.5. Respondent No.5 consents for setting aside the impugned Orders. Mr. Deshmukh seeks leave to amend the plaint so as to bring on record a complaint made by one of the members Shri Prakash Narendra Kothavade before the District Consumer Forum, Pune. He assures that within two weeks from today, he will file amended plaint and serve a copy of the amended plaint as

also Application Exh.5 on Respondent No.5.

6. Ms Nerurkar states that upon service of the amended plaint and the Application Exh.5, Respondent No.5 will file a reply within two weeks from today and serve a copy on the other side during this period.

7. In view thereof, by consent, the impugned Orders are set aside. Application Exh.5 is restored to the file of the trial Court. Plaintiff shall carry out amendment in the plaint as also the Application Exh.5 within two weeks from today and serve amended proceedings on the Respondent No.5.

8. Respondent No.5 will file reply to the amended Application Exh.5 within two weeks from the receipt of the amended Application.

9. Rule is made absolute in aforesaid terms with no order as to costs. Order accordingly.

All the contentions of both the parties on merits are expressly kept open.

Both the parties including the trial Court to act upon the authenticated copy of this Order.

(R.G.KETKAR, J.)