

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.1040 OF 2018
(Jaywantrao s/o Uttamrao Thakare and others Vs. Bapursaheb
Baburao Bhosle)

IN
WRIT PETITION NO.7207 OF 2016

Mr.S.P.Shah, Advocate for the applicants.
Mr.V.J.Dixit, Sr.Counsel h/f Mr.N.Y.Kingaonkar, Advocate for the
respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 29/01/2018

PER COURT :

1. Leave to correct prayer clause "A". Correction be carried out forthwith.

2. I have heard the learned Advocate for the applicants and the learned Senior Advocate on behalf of the respondent. An affidavit in reply has been entered on behalf of the respondent opposing the civil application.

3. By this application, the original petitioners desire that the order passed by this Court on 16/01/2018 be recalled and the petition may be disposed of in terms of the interim order passed by this Court on 07/07/2016. The time limit granted by this Court to

the Trial Court for deciding RCS No.5/2014 on or before 31/07/2018, be maintained.

4. The respondent has strenuously contended in the affidavit in reply that the order of this Court dated 16/01/2018 was passed after hearing the litigating sides for 2 hours and it was after the *purshis* was filed by the petitioners that the said order was passed. It is, therefore, contended that there are no circumstances or reasons to recall the order.

5. Learned Advocate for the applicants/original petitioners submits that the petitioners do not intend to proceed with the construction and would abide by the interim directions of this Court dated 07/07/2016 and the said order may be continued till the suit is finally decided.

6. This Court had passed the order on 16/01/2018 considering that the petitioners were very anxious to proceed with the construction. The said construction was therefore placed under certain legal conditions. Now that the applicants do not desire to proceed with the construction and agree to be bound by the interim orders of this Court, the purpose for which the order dated

16/01/2018 was passed, no longer survives.

7. The civil application is, therefore, allowed to the extent of recalling the order of this Court dated 16/01/2018 and the WP No.7207/2016 stands disposed off with the direction that the litigating sides shall be bound by the order of this Court dated 07/07/2016 which shall have its effect till RCS No.5/2014 is decided on or before 31/07/2018.

(RAVINDRA V. GHUGE, J.)