

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

**APEAL FROM ORDER NO. 61 OF 2018
WITH
CIVIL APPLICATION NO. 11616 OF 2018**

**SHARNAPPA BASWESHWAR SAKHARE
VERSUS
VAIJNATH GUNDAPAA SAKHARE AND OTHERS**

...
Advocate for the Appellant : Shri N. J. Patil

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 24th NOVEMBER, 2018.

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PER COURT :

1. The petitioner – original plaintiff is dissatisfied, partly, with the impugned interlocutory order dated 21/06/2018 passed by the Appellate Court in Regular Civil Appeal No. 81/2018. The operative part of the impugned order reads as under :-

"1. Application vide Exh. 5 for grant of temporary injunction, is hereby partly allowed.

2. The defendant Nos. 1 to 3 are hereby restrained by issuing the temporary injunction from alienating the suit land in any manner till

the disposal of the Appeal.

3. *Costs in cause."*

2. I have heard the submissions of the learned Advocate for the appellant and have gone through the paper book with his assistance.

3. Special Civil Suit No. 98/2014 was dismissed by the Trial Court by judgment dated 24/04/2018. The petitioner plaintiff had sought specific performance of the agreement to sell dated 12/05/2014 and a declaration that the sale-deed dated 16/10/2014 is not binding upon the plaintiff. After preferring the Regular Civil Appeal before the Appellate Court, the plaintiff prayed for injunction in the nature of preventing/restraining the defendants from interfering in his possession and a direction that third party interest would not be created in the suit property. The Appellate Court after considering the judgment of the Trial Court, *prima facie* concluded that defendant No.3 may be in possession of the suit land in pursuance to the registered sale-deed dated 16/10/2014 and hence he cannot be dispossessed by the

interlocutory order. It was in this backdrop that the above reproduced order was passed.

4. Considering the above, I do not find that any interference is called for. Instead, the Appellate Court could decide the Regular Civil Appeal expeditiously.

5. In view of the above, this AO is disposed off. Consequentially, the Civil Application is disposed off. The Appellate Court is expected to decide RCA No. 81/2018 as expeditiously as possible and in any case on or before 30/04/2019.

(RAVINDRA V. GHUGE, J.)

shp/-