

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

911 WRIT PETITION NO. 10204 OF 2018

HAJARABI BALDAR KHAN AND OTHERS
VERSUS
IBRAHIM KHAN BALDAR KHAN

...
Advocate for Petitioners : Mr. Mohit S. Shah

CORAM : V.L. ACHLIYA, J.
DATE : 12^h SEPTEMBER, 2018.

PER COURT:

By this petition, filed under Article 227 of the Constitution of India, the petitioner has challenged the order dated 14.2.2018 passed in RCA No. 48 of 2016, by the District Judge -1, Bhusawal.

2. Heard learned counsel for the petitioner and perused the judgment & decree passed by the trial court as well as the impugned order passed by the appellate court.

3. In my view, the impugned order calls for no interference in exercise of writ jurisdiction under Article 227 of the Constitution of India, as there is no perversity, illegality and jurisdictional error in the order passed by the appellate court. It is admitted position that the petitioner has filed a suit for possession in respect of the premises occupied by the respondent.

The trial court has decreed the suit in favour of the petitioner/plaintiff. The respondent/defendant has preferred an appeal and pending disposal of appeal, filed an application vide Exh.5 for grant of stay to the effect and operation of the judgment passed by the trial court. Pending disposal of appeal, the Appellate court has passed the interim order to stay the effect and operation of decree of possession by imposing certain conditions which include furnishing solvent surety to the extent of Rs. 1,00,000/- (Rs. One Lakh Only) and not to create third party interest in respect of suit property. In my view, the order passed by the Appellate Court is well within the bounds of law and there is absolutely no illegality, perversity or impropriety and jurisdictional error in the order passed by the appellate court. I am, therefore, not inclined to entertain the petition. Accordingly, the petition is dismissed.

4. The petitioner is granted liberty to approach the appellate court and request for early hearing of the appeal. In case such request is made, the appellate court may consider the same.

[V.L. ACHLIYA]
JUDGE.

grt/-