

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

**APPEAL FROM ORDER STAMP NO. 25257 OF 2018
WITH
CIVIL APPLICATION NO.11617 OF 2018 IN
APPEAL FROM ORDER STAMP NO. 25257 OF 2018**

**UMESH SHAMRAO JADHAV
VERSUS
NARMADABAI YADAV PURI AND ANOTHER**

...
Advocate for the Applicant : Shri S. S. Dixit
Advocate for the Respondent No. 2 : Shri N. B. Suryawanshi
h/f. Shri S. N. Suryawanshi
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CORAM : RAVINDRA V. GHUGE, J.

DATED : 19th OCTOBER, 2018.

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PER COURT :

1. Since C.A. No. 11615/2018 has been allowed today, the Appeal From Order, as well as, the C.A. No. 11617/2017 have been taken up for hearing by the consent of the learned Advocates for the respective sides.

2. I have heard the extensive submissions of the learned Advocates and have gone through the record available with their assistance.

3. Considering the order that I am passing in the facts and circumstances of the case, I am not required to advert to the entire submissions of the learned Advocates. Suffice it to say, that the learned Appellate Court has recorded in paragraphs 3 and 4 that though notice was served on the appellant, no written reply was filed insofar as the application Exhibit 7 filed by respondent No.2 (Dagu Shankar Gunjal) for interim relief, was concerned. The Appellate Court, therefore, recorded that despite a pass over, none appeared for the present appellant Umesh and the Appellate Court, therefore, proceeded to pass an order dated 26/04/2018 preventing the appellant (Umesh) and his family members for causing obstruction to the possession of respondent No. 2 (Dagu) over the suit property till the final disposal of the Appeal.

4. Both Dagu and Umesh have filed counter Regular Civil Appeal Nos. 96/2017 and 97/2017 keeping in view the judgment and order dated 14/09/2017 delivered by the Trial Court, by which, RCS No. 463/2011 was dismissed and the counter claim filed by Dagu was also dismissed.

5. I find that if this A.O. is to be considered on an interlocutory order, I will virtually have to hear the entire contentions of the litigating sides. If these contentions are advanced before the Appellate Court expeditiously, the pending two Appeals could be disposed off.

6. When called upon, both the learned Advocates submitted that they are willing to tender their written notes of submissions till 3/11/2018.

7. Considering the above and to ensure that the ends of justice are met, I am directing the litigating sides to tender their written notes of submissions alongwith the judgments to be cited before the Appellate Court on or before 03/11/2018. They may briefly address the Appellate Court orally. Thereafter, the Appellate Court would post Appeal Nos. 96/2017 and 97/2017 for judgment and would deliver the said judgments on or before 01/12/2018.

8. It is informed by the litigating sides that the crop standing in 80 R. land in gut No. 290, which is the suit

property, is ready for harvesting. Considering this position, it would be open to the litigating sides to suggest the names of atleast two advocates with sufficient practice on the civil side, out of which, one would be appointed by the Appellate Court as a court commissioner for monitoring the harvesting of the said crop. The harvested crop shall be sold by Daggu Shankar Gunjal in the presence of the court commissioner and the sale proceeds shall be handed over to the court commissioner to be deposited before the Appellate Court. Such deposit would be subject to the result of the appellate proceedings. This direction is being issued since both litigating sides have expressed their serious apprehension about the fate of the crop, which is ready for harvesting.

9. The A.O. is, therefore, disposed off with the above directions. The pending C.A. No. 11617/2018 would not survive and stands disposed off.

(RAVINDRA V. GHUGE, J.)

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