

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12219 OF 2018

MARUTI DATTU DHONE AND OTHERS
VERSUS
NIVRUTTI BAJIRA DHONE AND OTHERS

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Advocate for Petitioners : Shri Patil B.N.
Advocate for Respondents 1 to 5 : Shri Barhate A.N.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 31, 2018

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PER COURT :-

1 The petitioners / original plaintiffs have suffered the judgment and order of the trial Court dated 15.12.2017, by which, RCS No.385 of 2015 has been dismissed and the counter claim of the defendants is partly decreed. It is concluded that the defendants are in possession of the counter claim suit property, which is on the eastern side of the suit land.

2 The plaintiffs are also aggrieved by the inter-locutory order dated 18.7..2018 passed by the appellate Court concluding that prima facie, the impugned judgment and decree of the trial Court does not call for any interference and hence, the injunction is refused.

3 Considering that the trial Court has already adjudicated upon the

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suit and has delivered a judgment on the basis of the oral and documentary evidence, I deem it appropriate to relegate the parties to the final hearing in RCA No.7 of 2018 as considering this petition would practically amount to considering the submissions of the litigating sides in favour and against the judgment and decree of the trial Court. Nevertheless, the property can be preserved till the appellate Court decides the appeal.

4 As such, this petition is disposed off with a direction to the appellate Court to decide RCA No.7 of 2018 as expeditiously as possible and in any case on/or before the 30.4.2019. Until then, the defendants shall not create third party interest or alienate the properties, which they are held to be in possession of by the trial Court.

5 Needless to state, the observations of the appellate Court in the impugned inter-locutory order would not influence the Court while deciding the appeal finally.

(RAVINDRA V. GHUGE, J.)

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