

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11830 OF 2017

RAJU HARISHCHANDRA CHUNGADE
VERSUS
DHARAMSING BHULAL CHUNGADE AND OTHERS

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Advocate for Petitioner : Shri Bhandari Anand P.
Advocate for Respondents 1 to 3 : Patni Pramod F.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: June 11, 2018

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PER COURT :-

1. The petitioner / original defendant No.1 in RCS No.210 of 2014, is aggrieved by the judgment and order dated 20.7.2017, by which, the appellate Court has partly allowed MCA No.2 of 2016 and issued directions against the petitioner in Clauses (4) and (5).

2. I have heard the strenuous submissions of the learned Advocate for the petitioner and the respondents. With their assistance, I have gone through the petition paper book. Learned counsel for the petitioner has vehemently criticized the impugned order on the basis of eight grounds formulated in the

memo of the petition.

3. Considering the order that I am passing, I am not required to advert to the entire submissions of the learned Advocates. The plaintiff has suffered rejection of his application for temporary injunction under Order XXXIX Rule 1 of the Code of Civil Procedure, as the trial Court has rejected application Exhibit 5. Being aggrieved, the plaintiff approached the appellate Court. While rejecting the prayer of the plaintiff for seeking temporary injunction as against the defendants, the appellate Court has merely directed the defendants not to alienate the suit property or create third party interest in such properties until the suit is decided.

4. Learned counsel for the petitioner informs that the third party interest has been created by the present petitioner about two years ago.

5. Considering the above position, I do not find that the impugned direction issued by the appellate Court vide the impugned order dated 20.7.2017 could be termed as being perverse or erroneous or likely to cause gross injustice to the defendants in view of the law laid down by the Honourable Apex

Court in the matters of Syed Yakoob Vs. K.S. Radhakrishnan and others [AIR 1964 SC 447] and Surya Dev Rai Vs. Ram Chander Rai [(2003) 6 SCC 682].

6. This petition is, therefore, disposed off by taking into account the request of the litigating sides for expediting the suit. RCS No.210 of 2014 shall be decided by the trial Court as expeditiously as possible and preferably on/or before 30.4.2019.

(RAVINDRA V. GHUGE, J.)

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