

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

WRIT PETITION NO. 591 OF 2017

AVINASH RAMESH PATIL AND OTHERS
VERSUS
SUBHASH SHIVAJI DESALE AND OTHERS

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Advocate for the Petitioners : Shri Rane Girish S..
Advocates for Respondents 1 to 3 : Shri M S Sonawane and Shri Bolkar
Yogesh B..

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 18th June, 2018

Per Court:

1 The Petitioners/ original Plaintiffs are aggrieved by the order dated 16.01.2016 passed by the Trial Court thereby, rejecting the application Exhibit 6 in RCS No.88/2015 and the order dated 20.07.2016 passed by the Appellate Court, rejecting MCA No.3/2016.

2 I have heard the learned Advocates for the respective sides at length. Considering the order that I intend to pass, I am not required to advert to their entire submissions.

3 The learned Advocate for the Petitioners contended that the issue as to the distinction between “Mutation Entry” and “Sanad” and whether, the latter document would indicate the title of a person over the

property, has been lost sight of by both the lower Courts and the injunction has not been granted in favour of the Petitioners.

4 I am of the view that if the grievance of the Petitioners is considered at an interlocutory stage, their entire contentions will have to be taken into account and will have to be dealt with. If that is so done at this stage, it would practically result in drawing conclusions at an interlocutory stage, which are likely to affect either of the litigating sides on account of the observations of this Court.

5 In the above backdrop, keeping in view that the Appellate Court, vide the impugned judgment dated 20.07.2016 delivered in Miscellaneous Civil Appeal No.3/2016, had directed the Trial Court to decide Regular Civil Suit No.88/2015 within a time frame, it would be prudent to direct the Trial Court to decide the said suit expeditiously and deal with all the contentions of the litigating sides.

6 The Appellate Court has already directed the parties to maintain status-quo in relation to the suit property and the said relief can continue till the decision in the suit.

7 As such, this Writ Petition is disposed of with the following directions :-

- (a) The Trial Court shall decide RCS No.88/2015 as expeditiously as possible and in any case on or before 28.02.2019.
- (b) The litigating sides would be precluded from seeking

adjournments on unreasonable and trivial grounds and the Trial Court would be at liberty to reject such applications.

- (c) Needless to state, the direction of the Appellate Court by which, the litigating sides are directed to maintain status-quo with regard to the suit property, shall continue to bind the parties till 28.02.2019 or till the final decision in the suit, whichever is earlier.
- (d) All contentions of the litigating sides are kept open.

kps

(RAVINDRA V. GHUGE, J.)