

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

WRIT PETITION NO. 12969 OF 2017

**TUKARAM NARHARI INGLE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for the Petitioners : Shri H. P. Jadhav
AGP for Respondent Nos. 1 to 3 : Shri S. R. Yadav
Advocate for Respondent Nos 4 to 6 : Shri N. B. Jadhav

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 03rd DECEMBER, 2018.

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PER COURT :

1. The petitioners are the original defendants, who are aggrieved by the judgment dated 22/08/2017, by which, the Misc. Civil Appeal No. 42/2015 filed by the original plaintiffs has been allowed and an injunctory relief has been granted in favour of the plaintiffs, thereby, directing defendant Nos. 4 and 5 to refrain from disturbing the joint possession of the plaintiffs over the properties set out in paragraphs 3 and 4 of the plaint. Grievance is that the Trial Court has rejected application Exhibit 5 and has refused injunction in favour of the plaintiffs, which has been granted by the Appellate Court.

2. Though the learned Advocates for the respective sides have put forth their submissions, I find that the Appellate Court has balanced the equities by restraining defendant Nos. 4 and 5 from disturbing the joint possession of the plaintiffs. The Trial Court is also directed to deal with the matter without being influenced by the injunctory orders.

3. I find that the Trial Court is seized with RCS No.137/2015. The learned Advocate for the plaintiffs submits that they do not have any intention of alienating the property or creating third party interests or encumbrances till the suit is decided. In my view, when the suit is pending adjudication and the injunctory relief to a limited extent has been granted by the Appellate Court, the litigating parties will have to be restrained from creating third party interests or encumbrances on the suit properties.

4. In view of the above, this petition is disposed off. The litigating sides are restrained from creating third party interests or encumbrances on the suit property and the Trial Court would endeavour to decide RCS No.137/2015 as

expeditiously as possible and in any case, on or before 30/09/2019. The litigating sides would co-operate the Trial Court for such expeditious disposal of the suit.

(RAVINDRA V. GHUGE, J.)

shp/-