

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

WRIT PETITION NO. 9122 OF 2014

SHIVDAS BHIVSAN BHARSAKHLE AND OTHERS
VERSUS
JJABAI RAGUNATH DIVEKAR AND OTHERS

WITH
CIVIL APPLICATION NO.15451 OF 2017
IN WP/9122/2014

SANI DEVIDAS BHARSAKHALE AND OTHERS.
-VERSUS-
SHIVDAS BHIVSAN BHARSAKHALE AND OTHERS.

WITH
CIVIL APPLICATION NO.1130 OF 2018
IN WP/9122/2014

SHIVDAS BHIVSAN BHARSAKHLE AND ANOTHER
VERSUS
SANI DEVIDAS BHARSAKHLE AND OTHERS.

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Advocate for the Petitioners : Shri A.M.Gholap.
Advocate for Respondents 3 and 4 : Shri N.V.Nande and Shri K.D.Jadhav.
Advocate for Respondents 5 and 6 : Shri R.T.Nagargoje.
Advocate for Respondents 7 to 9 : Shri A.P.Bhandari.
Advocate for Respondents 11 to 14 : Shri A.S.Gandhi.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 06th October, 2018

Per Court:

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I have heard the learned Advocates for the respective sides on

the petition as well as on the Civil Applications. With their assistance, I have gone through the petition paper book and their contentions set out therein as well as in the civil applications.

2 Suffice it to say that the injunctory order that was passed by the first Appellate Court is dated 18.07.2014 by which, Miscellaneous Civil Appeal No.95/2013 was allowed. The Trial Court had refused injunction in RCS No.2064/2012. After this petition was lodged on 25.08.2014, though this Court issued notice on 13.10.2014, no interim relief was granted to the Petitioners and consequentially, the injunctory order dated 18.07.2014 continues to operate and the parties are covered by the directions set out therein.

3 In view of the above, I deem it appropriate to dispose of this Writ Petition, for which, the learned Advocates for the respective sides consent on the condition that the suit be expedited as it is lodged in 2012.

4 Considering the above, this Writ Petition is disposed of with a direction to the Trial Court to decide RCS No.2064/2012 expeditiously and in any case, on or before 30.06.2019.

5 In view of the above, Shri Gholap, learned Advocate appearing for the Applicants in Civil Application No.1130/2018 praying for transposition, submits that this Civil Application does not survive and can be disposed. As such, Civil Application No.1130/2018 stands disposed of.

6 Shri Bhandari, learned Advocate appearing for the Applicants in Civil Application No.15451/2017, submits that he had prayed for some reliefs in the application Exhibit 67 considering the effect of Order 39 Rule 4 of the Code of Civil Procedure in view of some settlement between the parties. That application has been opposed by Shivdas, Vishnu and Anna. The said application has been rejected. Shri Bhandari submits that he would have a remedy of preferring an appeal against the said order before the first Appellate Court under the Code of Civil Procedure.

7 Considering the above, Civil Application No.15451/2017 does not survive and stands disposed of.

8 Needless to state, those persons, who are aggrieved by the order of the Trial Court below Exhibit 67 would be at liberty to take recourse to a remedy as is permissible under the Code of Civil Procedure. The time spent by such litigants in this Court in the present proceedings, shall be considered as a ground for condonation of delay. It is made clear that all contentions of all litigating sides are kept open.