

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Application (S) No.1024/2016 in Second Appeal No.456/2016

Mahadev s/o Govindrao Devtare

Vs.

Babaji s/o Vikram Lonare (Dead) through LR's Savita wd/o Babaji Lonare and others

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Shri N.B.Kalwaghe, Advocate for applicant.

Shri K.N.Khedkar, Advocate for non applicant nos. 1 to 3.

CORAM : A.S.CHANDURKAR, J.

DATED : 21.09.2018

By this application, it is prayed that during the pendency of this appeal, the non applicants be restrained from obstructing the possession of the applicant over the suit property. In the application, it is stated that pursuant to sale deed dated 03.06.2005 and correction deed dated 17.09.2005, the applicant has acquired title and is occupying 652.60 square feet of area. It is further submitted that during the pendency of the suit and the appeal, similar injunction was operating. It is, therefore, prayed that said position be continued.

Reply has been filed by the non applicants opposing the prayer as made. It has been stated that the applicant has not obtained valid title pursuant to the sale deed dated 03.06.2005 and that the applicant was residing in the said premises without consent of the non applicants. It is, therefore, stated that as the suit and the appeal have been dismissed, said injunction does not deserve

to be granted.

Perused the records of the case which indicate that during the pendency of the suit, the trial Court on 20th December, 2007, had passed an order restraining the defendants from dispossessing the plaintiff from the suit property. After dismissal of the suit, an appeal was filed and in that appeal, the appellate Court passed order below Exhibit 12, continuing that injunction.

Considering the fact that the appeal has been admitted, it would be necessary to continue interim arrangement that was operating earlier. In that view of the matter, during the pendency of the second appeal, there shall be interim relief in terms of prayer clause (b). The applicant shall however not to create any third party rights in the suit property.

The application is allowed and disposed of.

JUDGE

Andurkar