

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.8399 OF 2019

JAGANNATH BAJIRAO CHANDANE

VERSUS

MAHESH BHAGWANRAO DABHADE AND ANOTHER

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Advocate for Petitioner : Mr.Angad L. Kanade

Advocate for Respondent No.1 : Mr.S.S.Thombre

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CORAM : RAVINDRA V. GHUGE, J.

DATE : 27th November, 2019.

PER COURT :-

1. The petitioner-original plaintiff is aggrieved by the judgment and order dated 19/11/2018 delivered by the Appellate Court, by which, Miscellaneous Civil Appeal No.34/2018, filed by the original defendants, has been allowed and the interlocutory order passed by the Trial Court, dated 05/04/2018, below Exhibit-5 in Regular Civil Suit No.25/2016, has been quashed and set-aside.

2. I have considered the strenuous submissions

of the learned Advocates at length. Their entire submissions need not be recorded in view of the statements that are made before the Court.

3. It is stated that the land of the defendant is situated towards the northern side of the suit property. It is not the case of the plaintiff that the defendant has committed an encroachment to the extent of any portion out of Survey No.65, which is towards the northern side of the suit property. The said suit property is situated towards the southern side of the portion owned by the defendant.

4. The Appellate Court has gone through the pleadings and the rough sketch map available and has noticed that the land of the defendant is not adjacent to the suit property either from the western side or from the northern side.

5. The learned Advocate for the defendants submits that the Appellate Court has recorded that they

have no intention of traveling to the western side and cause any harassment to the petitioner. The respondents are peacefully occupying their own shares.

6. The learned Advocate for the plaintiff submits that the assurance given by the respondents, as noted above, would be sufficient protection to the petitioner-plaintiff.

7. In view of the above, this petition is disposed off.

(RAVINDRA V. GHUGE, J.)

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