

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPEAL FROM ORDER NO. 80 OF 2018
WITH
CIVIL APPLICTION NO. 2546 OF 2019

BHASKARRAO GOPALRAO DESHMUKH AND OTHERS
VERSUS
SUBHASH SAKHARAM DESHMUKH AND OTHERS

Advocate for Appellants : Mr. M.M. Patil (Beedkar)
h/f. Mr. S.A. Patil.
Advocate for Respondent No. 1 : Mr. V.D. Salunke.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 11.03.2019

PER COURT :

1. I have heard the learned advocates for the respective sides at length.

2. The grievance of the appellants, who are original plaintiffs, is that though their RCS No. 174/2006 was dismissed on 09.10.2017, there was an arrangement between the parties that third party rights would not be created in the suit property. The plaintiffs preferred RCA No. 134/2017, challenging the dismissal of the suit. By the impugned order dated 05.01.2018, application Exhibit 5 praying for interim protection, has been rejected by the trial Court.

3. The appellants contend that the original defendants are creating third party interest and encumbrances on the suit property.

In the absence of protective orders by this Court, further complications would be created. It is, therefore, contended that if status as existing today, in so far as the suit property is concerned, is maintained, the appeal can be decided expeditiously.

4. I have perused the reasons owing to which the trial Court has dismissed the suit. I have also gone through the conclusions drawn by the appellate Court at a *prima facie* stage and it appears that the plaintiffs would not be justified in seeking injunctory orders against the defendants. So also, after this Court (Coram : S.V. Gangapurwala, J.) allowed the plaintiffs to convert the Writ Petition into an Appeal from Order, vide order dated 21.09.2018, no ad-interim protection was granted.

5. Considering the above and since I am in agreement with the *prima facie* conclusions of the appellate Court, this Appeal from order is disposed off with the following directions :

(a) The appellants shall furnish a private paper book before the appellate Court on/or before 25.03.2019.

(b) The appellate Court shall record the oral final submissions of the litigating sides within three weeks from the date of the filing of the paper book.

(c) After the final submissions are adduced, the appellate Court would endeavor to decide RCA No. 134/2017, on/or before 15.06.2019.

(d) Needless to state, in view of the pending litigation, any third party interest created by the defendants would be subject to the result of the civil litigation.

(RAVINDRA V. GHUGE, J.)

S.P.C.