

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6077 OF 2018

SHAILESH KEVALCHAND PAGARIYA
VERSUS
BANSILAL ARJUN WAGH AND OTHERS

Advocate for Petitioner : Mr. K.C. Sant.
Advocate for Respondent No. 1 : Mr. G.V. Wani.
Advocate for Respondent Nos. 3, 5 & 6 :
Mr. Khan Abdul Hakeem Khan h/f. Mr. M.L. Sangit.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 13.02.2019

PER COURT :

1. Heard the learned advocates.
2. The petitioner is the original defendant No. 9 who has suffered the judgment and order dated 21.12.2011, in RCS No. 149/1996. The petitioner is said to be a purchaser pendent-lite. he is now an appellant in RCA No. 31/2015. Grievance is that the executing Court has refused ad-interim protection to this petitioner by order dated 13.06.2017, in F.D. No. 43/2016.
3. This Court has granted ex-parte ad-interim relief to the petitioner by order dated 20.06.2018.
4. Learned advocate for the respondent submits that, out of the

entire suit land which is the subject matter of the decree, this petitioner has purchased only 39 R. NA permission has now been granted. The petitioner has already sold eleven plots and only nine plots remain in his possession. Considering the effect of Order XXI Rule 102 of the Code of Civil Procedure, the petitioner cannot be granted any relief. Nevertheless, even if the ex-parte ad-interim order is to be continued, it would have to be restricted to the extent of the nine plots which are in the custody of the petitioner.

4. In view of the above, this petition is disposed of by continuing the relief dated 26.02.2018, by restricting it only to the extent of the nine plots which are in possession of the petitioner. The appellate Court shall proceed to decide RCA No. 31/2015 as expeditiously as possible and in any case on/or before 31.05.2019.

5. It is made clear that F.D. No. 43/2016, would proceed as in accordance with law keeping in view that the nine plots held by this petitioner are under the protection of the order of this Court dated 20.06.2018, till the appeal is decided and the rest of the properties shall not be covered by the said order.

(RAVINDRA V. GHUGE, J.)