

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

WRIT PETITION NO. 6774 OF 2019

**BALKRUSHA S/O TRIMBAK KULKARNI AND OTHERS
VERSUS
SHRIKANT SHANKAR LONDHE**

...

Advocate for the Petitioners : Shri A. P. Ghule Patil

...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 12th JUNE, 2019.

...

PER COURT :

1. The petitioners, who are respondents, are aggrieved by the order dated 13/07/2018 passed below application Exhibit 7 in Regular Civil Appeal No. 32/2018 and the order dated 30/07/2018 passed below Exhibit 1 in the said Appeal.

2. The contention is that a caveat was filed on behalf of petitioner No.3 as a defendant. Yet, the learned District Judge has granted ad interim stay to the execution of the judgment and decree dated 03/05/2018 delivered by the Trial Court in RCS No. 261/2012. So also, the order dated 30/07/2018 has been passed.

3. I find this petition to be a case of frivolous litigation.

4. A notice was issued in the Regular Civil Appeal to all the respondents. The Caveator was one amongst the many respondents. By order dated 30/07/2018, the learned District Judge has recorded that the office of the Court has committed a mistake in not marking the caveat which was filed on 04/06/2011 (wrong typed as 2011 and should be 2018). Since the office lost sight of the said caveat, an exparte ad interim order was passed.

4. It is glaring to note that the same caveator made a statement before the learned District Judge on 30/07/2018 that he has no objection if the order dated 13/07/2018 is continued till the next date.

5. These petitioners should have, therefore, appeared before the Appellate Court and worked out Exhibit 7. Instead, this petition is filed in this Court on 16/04/2019.

7. In view of the above, this petition is dismissed with costs quantified at Rs. 5,000/- to be paid by each of the petitioners. The said amount shall be deposited in this Court on or before 10/07/2019 and the registry shall transmit the said amount to the Government Medical College and Hospital, Aurangabad, **through Medical Officer, High Court Dispensary, Aurangabad.**

(RAVINDRA V. GHUGE, J.)

shp/-