

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6423 OF 2018

OMPRAKASH GOPINATH RATHI
VERSUS
SHIVPRASAD MOTILAL RATHI (MOHATA)

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Advocate for Petitioner : Shri Deshmukh Ashish
h/f Shri Deshmukh S.S.
Advocate for Respondent : Shri Bhandari Anand P.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 20, 2019

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PER COURT :-

1. When this Court (Coram: Sunil P. Deshmukh,J.) had heard this matter on 26.2.2018, prior to issuing notice, the following order was passed:-

"1. Issue notice to the respondent, returnable on 24.7.2018.

2. Learned counsel for petitioner urges for interim relief, purporting to point out that as a matter of fact, defendant has accepted the claim about petitioner's possession to the extent of 600 square feet. He further purports to contend that despite finding that the petitioner has a prima facie case in his favour, the court under erroneous assumption, irrespective of facts, bogged down by consideration that the properties have been co-owned by the parties, no injunction can be granted, has refused to grant injunction though admittedly the property has been in

possession of petitioner. Learned counsel for petitioner further, on instructions states that interim relief had been operating in favour of petitioner until order had been passed by appellate court.

3. *In view of the same, status quo be maintained by the parties, till the returnable date.*

4. *In addition to service through court process, petitioner shall serve respondent by any legally acceptable private mode of service and file affidavit along with tangible proof to that effect before returnable date. In case of failure to serve respondent privately and file affidavit as directed before returnable date, ad-interim relief, as has been granted, would automatically cease to operate."*

2. I have heard the learned Advocates for the respective sides. The litigating sides are before this Court in relation to an interlocutory order. The trial Court has rejected application Exhibit 5 and refused temporary injunction. The said order has been sustained by the appellate Court, concluding that the Misc. Appeal is devoid of merits. The plaintiff has also been held, *prima facie*, guilty of suppression of material information. The defendant is held to be in possession of 300 sq. meters in the suit property, which is a shop and the plaintiff is held to be in possession of 600 sq. meters.

3. RCS No.390 of 2016 is pending adjudication. Both the

litigating sides have no objection if the trial in the said suit is expedited.

4. Considering the above, I find it appropriate to direct the trial Court to decide RCS No.390 of 2016 as expeditiously as possible and in any case, on/or before 31.12.2019. If the petitioner / plaintiff is found to be seeking unnecessary adjournments and is delaying the matter, the trial Court may accordingly pass such an order on a given adjournment application and while doing so, the *status quo* granted by this Court can be vacated. No grievance of the plaintiff would, thereafter, be entertained.

5. With the above directions, this petition is disposed off and the *status quo* order granted on 26.6.2018 shall continue till the disposal of the suit, unless it is vacated by the trial Court in the aforementioned circumstances.

(RAVINDRA V. GHUGE, J.)

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