

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7632 OF 2019
(Hari @ Haribhau Vaijinath Kotalwar Vs. Venkatesh s/o Hari
Kotalwar and others)

Mr.A.N.Irpatgire, Advocate for the petitioner.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 25/06/2019

PER COURT :

1. The petitioner/original plaintiff is aggrieved by the order dated 26/02/2019 passed below application Exh.59, by which the Trial Court rejected the said application praying for extension of the ex-parte ad interim order.
2. I have considered the strenuous submissions of the learned Advocate for the plaintiff.
3. The Trial Court had granted an ad-interim relief on 14/05/2018. Thereafter the petitioner sought an extension and the ad-interim order was continued in view of the request applications filed by the petitioner/plaintiff.

4. Finally, on 26/02/2019, the Trial Court observed that the plaintiff has not prayed for any interim relief against defendant Nos. 6 and 7. Yet, the plaintiff submitted that the temporary injunction application could be argued after defendant Nos. 6 and 7 filed their written statement. Hence, the Trial Court refused to extend the *status-quo* untill Exh.5 application is argued. The petitioner is without any protection since 26/02/2019 till this date.

5. Learned Advocate for the petitioner/plaintiff submits that the next date in the Trial Court to argue application Exh.5 is 28/06/2019.

6. Having considered the above, I find that there is no purpose in keeping this matter pending in this Court on the ground of considering whether the ad-interim relief should have been continued or not. Instead, it would be appropriate to permit the parties to work out Exh.5 and to direct the Trial Court to decide the said application within a time frame.

7. Hence, this petition is disposed off. It is expected that all the litigating sides would advance oral submissions in relation to application Exh.5 and the Trial Court would decide Exh.5 as

expeditiously as possible and on or before 20/08/2019 on its own merits.

8. Needless to state, the petitioner/plaintiff has sufficient protection u/s 52 of the Transfer of Property Act and any third party interest created *pendente lite* would always be subject to the result of the suit.

(Ravindra V.Ghuge, J.)