

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

927 APPEAL FROM ORDER NO.54 OF 2018
WITH
CIVIL APPLICATION NO. 10372 OF 2018
IN
APPEAL FROM ORDER NO.54 OF 2018

JABBAR KHAN MEHBOOB KHAN AND ANOTHER
VERSUS
DISTRICT COLLECTOR, COLLECTOR OFFICE, AURANGABAD
AND OTHER

Advocate for Petitioners : Mr. Kasliwal Ajit D.
AGP for Respondent Nos. 1 to 4-State: Mr. A.B. Chate
Advocate for Respondent No.5: Mrs. Sanghmitra Wadmre

CORAM : V. K. JADHAV, J.
DATED : 5th DECEMBER, 2019

PER COURT :-

1. Heard both the sides.
2. The appellants are the original plaintiffs. The appellants – original plaintiffs have instituted the suit bearing RCS No.627 of 2018 for declaration and decree of perpetual injunction and also filed an application Exhibit-5 for issuance of the order of temporary injunction. On 27.07.2018, the trial Court has rejected the said application and aggrieved by the same, the appellants – original plaintiffs herein have preferred an appeal bearing Misc. Civil Appeal No.113 of 2018 before the First Appellate Court, at Aurangabad. During pendency of the said Misc. Civil Appeal, the appellants herein have filed an application for interim injunction pending in the said Misc. Civil

Appeal. However, by impugned order dated 06.08.2018, the lower Appellate Court has rejected the said application.

3. By order dated 13.08.2018, this Court has granted ad-interim relief in terms of prayer clause (B). In consequence thereof, respondent nos. 1 and 3 are restrained by an order of injunction from causing obstruction, interference in the peaceful possession and enjoyment of the applicants in the suit property.

4. Learned counsel appearing for Respondent No.5 submits that respondent no.5 came to be impleaded as a party respondent in this appeal under the order of this Court. If the appellants herein implead respondent no.5 herein as a party respondent in Misc. Civil Appeal pending before the First Appellate Court, respondent no.5 is having no objection to continue with the interim relief granted by this Court till disposal of Misc. Civil Appeal pending before the First Appellate Court provided that if the First Appellate Court is directed to dispose of the said appeal as expeditiously as possible in a time bound manner.

5. In view of the above submissions, the First Appellate Court is hereby directed to dispose of Appeal bearing Misc. Civil Appeal No.113 of 2018 as expeditiously as possible,

preferably within a period of three months from the date of this order and till disposal of the said appeal, the ad-interim order of injunction passed by this Court on 13.08.2018 shall remain in force. The appellants herein shall also file an application for impleading respondent no.5 herein as a party respondent to the Misc. Civil Appeal No.113 of 2018 pending before the First Appellate Court, Aurangabad and learned Judge of the First Appellate Court shall consider the said application in the backdrop that this Court has allowed the application filed by present respondent no.5 and respondent no.5 came to be impleaded as a party respondent in the present appeal under the order of this Court. Order accordingly. The Appeal is accordingly disposed.

6. In view of the disposal of Appeal, nothing survives for consideration in the pending civil application and the same is also stand disposed of.

(V. K. JADHAV, J.)

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