

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

WRIT PETITION NO.12397 OF 2018

SAMARTH TOOLS AND ENGINEERING AND ANOTHER
VERSUS
SANBARA AND COMPANY THROUGH OWNER AND OTHERS

...

Advocate for the Petitioners : Shri Jayabhar Dattatraya R..

Advocate for Respondent 1 : Shri Sandip R Andhale.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 10th January, 2019

Per Court:

1 The Petitioners/ Plaintiffs are aggrieved by the impugned judgment of the Appellate Court dated 15.09.2018 by which, Miscellaneous Civil Appeal No.2/2018 filed by the original Defendant No.1 is allowed and the injunction granted in favour of the Plaintiffs by the Trial Court vide order dated 13.11.2017, has been vacated and the said order has been quashed and set aside.

2 The learned Advocate for the Plaintiffs submits, on instructions, that their machinery is lying inside the suit property, which is a godown.

3 The learned Advocate for Respondent No.1 has taken instructions from his client present in the Court, who admits that the

machinery of the Plaintiffs is inside the godown.

4 Considering the above, it is quite obvious that though the Plaintiffs claim to have possession of the property, their machinery is lodged inside the godown. Defendant No.1 claims to have possession of the property and concedes that the machinery of the Plaintiffs is inside the godown. The suit is for specific performance in view of the business transactions entered into by the Plaintiffs and Defendant No.1.

5 Considering the above, this Writ Petition is disposed of with the direction to all the litigating sides that they would maintain status-quo as regards the suit property and the machinery parked in the godown. There shall be no creation of third party interest, alienation or encumbrances on the suit property and machinery. In the event, the Petitioners desire to utilize the said machinery for any purpose, they are at liberty to approach the Trial Court in the pending suit and file an application for the said purpose.