

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11234 OF 2013

Hanmant K. Thombre and ors. .. Petitioners
vs.
Laxman Jagannath (Kawade)
Pandhare and ors. .. Respondents

Mr. Dilip B. Bodake for the Petitioners.
Mr. Sameer Kadam I/b Mr. R.P. Kadam for Respondent Nos.1
to 4.

CORAM : M. S. SONAK, J.

DATE : 05 APRIL 2019.

P.C. :-

1] Heard Mr. Bodake for the petitioner and Mr. Sameer Kadam h/f Mr. Ravi Kadam for the respondent Nos.1 to 4.

2] The challenge in this petition is to the orders dated 9th August 2012 and 20th August 2013 made by the Trial Court and the Appeal Court injuncting the petitioners from disturbing the possession of the respondents-plaintiffs pending the hearing and final disposal of Regular Civil Suit No. 142 of 2011.

3] Mr. Bodake, learned counsel for the petitioners, points out that both the impugned orders suffer from error apparent on the face of record. He submits that the learned Trial

Judge and the Appeal Judge have not followed the correct principles in relation to grant of temporary injunction. On these grounds, he submits that the impugned orders are required to be set aside.

4] Mr. Sameer Kadam, learned counsel for respondent Nos.1 to 4, defends the impugned orders on the basis of reasoning reflected therein.

5] According to me, both the orders are interim orders which are to operate during pendency of Regular Civil Suit No. 142 of 2011. From the perusal of the impugned orders, it cannot be said that there is any jurisdictional error or that this is a case where discretion has been exercised unreasonably.

6] Taking into consideration the parameters for interference in such discretionary orders, no case is made out to warrant any interference with the injunction orders which have continued since the year 2011.

7] Rather, the interests of justice will be served if the learned Trial Judge is directed to dispose of Regular Civil Suit No. 142 of 2011 as expeditiously as possible, on its own merits and in accordance with law. Accordingly, this petition is dismissed. However, learned Trial Judge is directed to dispose of Regular Civil Suit No. 142 of 2011 on its own merits and in accordance with law, as expeditiously as possible and in any case within a period of one year from today. In disposing of the suit, the learned Trial Judge should not be influenced by any of the observations in the impugned orders or for that matter, the present order.

8] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)