

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 809 OF 2017

Shri. Pandurang Ganu Devkar

... **Petitioner**

V/s.

Shri. Sampatrao Dada Patil and Anr.

... **Respondents**

Mr. Sachin Hande for the Petitioner.

Mr. Sameer Kadam I/b Mr. Nilesh Patil for Respondent Nos. 1 and 2.

**CORAM : M.S.SONAK, J.
DATE : 15TH APRIL, 2019**

P.C.:

1. Heard Mr. Sachin Hande for the Petitioner and Mr. Sameer Kadam for Respondents.
2. Challenge in this petition is to the order dated 07.09.2016 made by the District Judge-3, Islampur, the operative portion of which reads as follows:

"ORDER"

- 1) *The appeal is partly allowed.*
- 2) *The order passed by the learned trial court in R.C.S. No. 459/2010 below Exh. 6 on 13/03/2014 is hereby set aside. Both the parties are directed to maintain status-quo in respect of existence of disputed well, electric connection, electric motor and the cattle shed situated in disputed portion of 4-R land in Gat No. 1311 till disposal of the suit.*
- 3) *Considering the controversy between the parties the*

learned trial court shall take efforts to decide the suit as early as possible.

4) *No order as to costs."*

3. Mr. Sachin Hande learned Counsel for the Petitioner has read out the reasoning in paragraphs 7, 8 and 9 of the learned Trial Judge's order dated 13.03.2014 and submitted that the said reasoning is required to be preferred over the reasoning adopted by the Appeal Court. He submits that learned Trial Judge was right in rejecting relief to the Respondent/ Plaintiff and Appeal Court has exceeded jurisdiction in interfering in the well reasoned order made by the Trial Judge.

4. According to me, the Appeal Court, has considered in details the reasoning of the learned Trial Judge and only thereafter, disagreed with such reasoning, by making the impugned order. The Appeal Court, in particular, has taken cognizance of the existence of cattle shed, electric connection and electric motor installed upon the disputed well, of which cognizance had not at all be taken by the learned Trial Judge. The purpose for making interim orders is to observe the status quo, this is what the Appeal Court has preserved.

5. Taking into consideration the limited scope of interference by this Court in such matters, there is no case made out to the warrant

interference in the exercise of supervisory jurisdiction. The Appeal Court has adverted to relevant material and there is no error of law pointed out. The order of the Appeal Court directs maintenance of the status quo, and nothing further.

6. For the aforesaid reasons, this petition is dismissed. There shall be no order as to costs.

7. However, it is made clear that learned Trial Judge while deciding this suit need not be influenced by any observations in the order dated 13.03.2014, the impugned order dated 07.09.2016 and for that matter, the present order as well. The suit is to be decided on its own merits in accordance with law and after taking into consideration the evidence which the parties lead at the trial.

8. With the aforesaid observations, this petition is disposed of. There shall be no order as to costs.

(M.S.SONAK, J.)