

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 2263 OF 2018

Mr. Rajesh Vasant Tiwari
And others

...Petitioners

Versus

Mr. Vimalchand Ghevarchand Jain
And others

...Respondents

....

Mr. A.V. Anturkar, Senior Advocate a/w. Anul Lahoti, Advocate for the
Petitioners.

Mr. Vimalchand G. Jain, respondent No.1 present in person.

....

CORAM : R. G. KETKAR, J.

DATE : 15th FEBRUARY, 2019

P.C.

1. Not on board. At the request of Mr.Anturkar taken up for admission.
2. Heard Mr. A.V. Anturkar, learned Senior Counsel for the petitioners and Mr.Vimalchand G. Jain, respondent No.1 appearing in person, at length.
3. As per the administrative order of the Hon'ble the Chief Justice, the petitioners have moved this Court as regular Court presided over by Hon'ble Mr. Justice K.K. Tated is not available for judicial work.
4. Mr. Anturkar has moved this Court as the learned trial Judge has kept the matter tomorrow i.e. 16.2.2019 for handing over possession of the suit property to respondents No.1 to 9.

5. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the order dated 21.12.2017 passed by the learned District Judge-2, Niphad below Exhibit-5 in Regular Civil Appeal No.125/2017 and other companion appeals. By that order, the learned District Judge rejected said applications at Exhibit-5 of all the appeals and directed disposal of execution proceedings in Special Darkhast No.2/2015 expeditiously.

6. Mr. Anturkar states that petitioner No.1 Rajesh Vasant Tiwari is present in the Court today. He has tendered a photo-copy of his Aadhaar Card, which is taken on record and marked 'A' for identification. Upon taking instructions from petitioner No.1, Mr.Anturkar states that the petitioners are not pressing this petition and the petition may be disposed of by directing the Appellate Court to dispose of the appeals in a time bound manner. As the petitioners are not pressing this petition, in case the respondents execute the decree and obtain possession, they may be restrained from creating third party interest and parting with the possession thereof. Respondent No.1, who appears in person, has no objection for disposal of the appeals in a time bound manner.

7. In view thereof, the petition is disposed of as not pressed in following terms:

- i. In case, the respondents execute the decree and obtain possession, they shall neither create third party interest nor part with the possession and will abide by the outcome of the pending appeals, subject to their right to challenge the order.
- ii. The parties agree that they will appear before the learned District Judge on 25.2.2019 and for that purpose no fresh notice be issued to them. The learned District Judge will ensure that the appeals are ready for final hearing and fix a suitable date. The learned District Judge is requested to dispose of the appeals within three months from fixing the suitable date of hearing.
- iii. All contentions of the parties in the appeals are expressly kept open. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)