

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8744 OF 2016

Rudragonda Bhimgonda Patil and Ors. ...Petitioners
vs.
Balaso Bhimgonda Patil and Ors. ...Respondents

Mr. G.N. Salunke I/b. Umesh Kurund, for the Petitioners
Mr. Dundapa Patil, for Respondent No. 1.

CORAM : M. S. SONAK, J.

DATE : APRIL 16, 2019

P.C.:

. Heard learned counsel for the parties.

2. The challenge in this Petition is to the orders dated 26th October, 2015 and 30th June, 2016 made by the learned trial Court and the learned Appeal Court. Although the two Courts have ruled against the Petitioners, the fact remains that from 30th June, 2016 onwards there is restrain upon the Respondents from undertaking any construction in or upon the suit properties. The restrain is continued by virtue of interim order made from time to time.

3. According to me, the interest of justice will be made if the learned trial Judge is directed to dispose of RCS No. 105 of 2014 as

expeditiously as possible and in any case on or before 31st March, 2020 and in the meanwhile the restrain on construction continues.

4. Accordingly, the restrain is ordered to continue until the disposal of RCS No. 105 of 2014 and the learned trial Judge is directed to dispose of the RCS No. 105 of 2014 as expeditiously as possible and in any case on or before 31st March, 2020.

5. Though the aforesaid order is made, it is necessary to clarify and therefore it is clarified that this extension of interim relief may not be taken as the opinion of this Court that there was any serious legal infirmities in the impugned orders. The only reason why this restrain order has been continued because the same was in operation from last 4-5 years and at this stage, it would be appropriate to permit this situation to continue until the suit is decided one way or other on the merits. Therefore, it is made clear that learned trial Judge need not be influenced by any of the observations either in the impugned order or the fact that the stay order has been continued by this Court during the pendency of the suit. This position is clarified because the learned counsel for the Respondents complaints that this order might be used for seeking

further reliefs even if the suit is ultimately decided against the Petitioners herein.

6. The Petition is disposed of in the aforesaid terms

7. There shall be no order as to costs.

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

(M. S. SONAK, J.)