

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3572/2016

Sunil Shankarrao Banait and others

Vs.

Smt. Chhayabai wd/o Bhimraoji Lenjewar and another

Office notes Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri M.R.Joharapurkar, Advocate for petitioners.
Shri M.B.Turankar, Advocate for respondents.

CORAM : A.S.CHANDURKAR, J.

DATED : August 26, 2019

The challenge raised in the present writ petition is to the order dated 17.11.2014 passed by the trial Court restraining the petitioners-defendants from creating third party rights over the suit property bearing House No.278 and also restraining the petitioners from disturbing the possession of the original plaintiff over House Nos. 450 and 279. The said order dated 17.11.2014 passed by the trial Court has been confirmed by the appellate Court in the miscellaneous appeal preferred by the petitioners herein.

On hearing the learned counsel for the parties, it is seen that both the Courts have found that the original plaintiffs are in possession of House Nos. 450 and 279. The dispute is with regard to entitlement of the defendants to alienate or to create third party rights over House No.278. Though according to the petitioners, the suit as filed is beyond the period of limitation, it has been found that the aspect of limitation is a mixed question of law and fact. In the light of the fact that the suit was filed in the year 2014 and as the injunction granted by the trial Court has been operating since 2014, the interests of justice would be met by directing the trial Court to expedite the hearing of the said suit.

In that view of the matter without expressing any opinion on the correctness of the findings recorded by the trial Court as well as by the appellate Court, the proceedings in R.C.S.No.979/2014 are expedited. The trial Court shall decide the aforesaid suit expeditiously within a period of one year from today. It is made clear that the trial Court shall not be influenced by any observations made in this order. The suit be decided in accordance with law. The writ petition is accordingly dismissed. No costs.

JUDGE

Andurkar.