

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

APPEAL AGAINST ORDER NO.54 OF 2017

Gurlal Singh Swaransingh Dhillon, Dattawadi, Nagpur
-vs-
Gurvendrajitsingh Kuldeepsingh Saini, Dattawadi, Nagpur

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

Court's or Judge's Orders.

Shri Zeeshan Haq, Advocate for appellant.
Ms A. R. Taiwade, Advocate for respondent.

CORAM : A.S.CHANDURKAR, J.

DATE : January 22, 2019

Heard finally with consent of learned counsel for
the parties in view of the short issue involved.

2. The appellant is the original plaintiff who had filed the suit for specific performance seeking execution of the sale-deed pursuant to the agreement dated 23/03/2009. It is the case of the plaintiff that pursuant to the document dated 23/03/2009 which was unregistered, the defendant had sold his undivided share in the suit land to the plaintiff for a consideration of Rs.2,50,000/-. In the suit it was prayed that a sale-deed be directed to be executed so as to convey valid title to the plaintiff.

The trial Court dismissed the said suit on 20/01/2016. The plaintiff therefore filed an appeal challenging the said decree. In that appeal the appellant moved an application seeking to restrain the respondent from creating third party rights in the suit property. The appellate Court rejected that application on the ground that since 23/03/2009 the respondent did not make any attempt to create third party rights and hence the apprehension expressed by the appellant was unfounded. That order is challenged in the present appeal.

3. Heard the learned counsel for the parties. It is seen that the appeal pending before the appellate court is of the year 2016. Instead of adjudicating on the respective contentions at this stage, the interests of justice would be served if the appeal itself is directed to be decided expeditiously. The record indicates on 27/03/2018 this Court had directed the parties to maintain status-quo which order was thereafter continued on 05/06/2018.

4. Hence without entering into the merits, it is found that the following order would serve the interests of justice :

i) The appellate Court shall decide R.C.A.No.624/2016 expeditiously and preferably by the end of April 2019.

ii) The appeal shall be decided on its own merits without being influenced by any observations made in the impugned order or in the present order.

iii) In case the respondent intends to alienate the suit property, he shall bring the said fact to the notice of the appellate Court before doing so.

iv) All contentions of the parties are kept open.

v) The Appeal Against Order is disposed of in aforesaid terms with no order as to costs.

JUDGE