

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

WRIT PETITION NO.689 OF 2017

Uddhav s/o Gopalrao Pant.

Vs.

Smt. Indirabai Gopalrao Pant and another.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri D. R. Khapre, Advocate for petitioner.

Shri P. Mohta, Advocate for respondent nos.1 & 2.

CORAM : A. S. CHANDURKAR, J.

DATE : NOVEMBER 04, 2019.

Considering the short issue involved the learned counsel for the parties have been heard by issuing Rule and making it returnable forthwith.

The challenge raised in the present writ petition is to the order passed by the Appellate Court in the Miscellaneous Appeal filed by the defendant no.1 thereby restraining the original plaintiff from disturbing the possession of the defendant no.1 and also from alienating the suit property. According to the plaintiff, he is entitled to the suit properties as mentioned in the plaint. His right therein was sought to be disturbed by his mother and sisters. He accordingly filed suit for declaration of his rights and also for perpetual injunction. In the suit he also filed an application for perpetual injunction seeking to restrain the defendants from interfering with his possession. Sale deed executed in favour of one Madhav was sought to be declared as null and void. The application for temporary injunction as moved by the plaintiff was allowed by the trial Court and the defendants were restrained from disturbing his possession. The Plaintiff's mother filed a Miscellaneous Appeal. The Appellate Court allowed the same and

restrained the plaintiff from disturbing the possession of the defendant no.1 and also from creating any third party interest.

This Court while issuing notice in the writ petition on 07.02.2017 stayed the order passed by the Appellate Court.

On hearing the learned counsel for the parties, it is seen that the suit is at the stage of recording evidence. The order passed by the Appellate Court on 22.11.2016 has been stayed and that interim order is operating for period of more than two and half years. Considering the nature of dispute between the parties who are all family members and without going into the rival contentions at this stage, interests of justice will be served by directing expeditious disposal of the proceedings in Regular Civil Suit No.139 of 2013 as any observations made at this stage could prejudice the rights of either of the parties.

Accordingly, the following order is passed.

1. The proceedings in Regular Civil Suit No.139 of 2013 are expedited.
2. The trial Court shall take necessary steps to decide the suit preferably within a period of one year from today.
3. The parties shall maintain status quo as of today during pendency of the civil suit which direction is issued without prejudice to the rights of the parties.
4. The trial Court shall decide the suit on its own merits without being influenced by this direction.
5. None of the parties shall create third party rights in suit property herein in after. All contentions

on merits are kept open.

The Writ petition is disposed of in aforesaid terms.
Rule accordingly. No costs.

JUDGE

Sarkate