

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2613 OF 2020

GAJENDRA SHRIRAM PATIL
VERSUS
SUNI RUSHIKUMAR SHARMA AND ANOTHER

...
Advocate for the Petitioner : Shri Deshpande C.R.
Advocate for Respondent 1 : Shri Kulkarni Mukul S.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 04th March, 2020

Per Court:

1 This matter was heard extensively on 02.03.2020 and 03.03.2020. Since it was quite late in the day to commence the dictation of the order in this matter and keeping in view that Regular Civil Appeal No.31/2018 was before the first Appellate Court for delivering its judgment on 03.03.2020, that I declared the result of this petition by stating that this petition is being dismissed in view of the law laid down by the Honourable Supreme Court in the matter of *Kasturi vs. Iyyamperumal and others, 2005 (6) SCC 733* and *Mumbai International Airport Private Limited vs. Regency Convention Centre and Hotels Private Limited and others, 2010 (7) SCC 417*.

2 Today, before commencing the dictation of the judgment in

this matter, the learned advocates for the respective parties informed me that Regular Civil Appeal No.31/2018 in between Bharat Shriram Patil (Appellant) and Sunil Sharma (Respondent No.1 herein) has been dismissed by judgment dated 03.03.2020.

3 In this matter, the petitioner, who is the brother of the appellant (Bharat Shriram Patil), had moved an intervention application in the said appeal, which was rejected by the first Appellate Court by the order dated 29.11.2019 passed below exhibit 13. In a challenge to this order in this petition, I have pronounced the result of this petition on 03.03.2020.

4 The learned advocate for the petitioner submits that he has preferred an independent Regular Civil Suit No.310/2018 in which, the respondents are the defendants. The petitioner would canvass all his rights available to him in the said civil suit and this petition can be disposed off.

5 Considering the above and the request made, I am not assigning detailed reasons while disposing off this petition. At the cost of repetition, I had expressed my view that this petition would be dismissed in view of the law laid down in **Kasturi** (supra) and **Mumbai International Airport Private Limited** (supra) thereby, extinguishing the claim of the present petitioner in intervening in Regular Civil Appeal No.31/2018.

6 Considering the above position, the rights of the petitioner would be alive in Regular Civil Suit No.310/2018 to the extent of the reliefs claimed in the said suit.

7 This Writ Petition is, accordingly, disposed off.

kps

(RAVINDRA V. GHUGE, J.)