

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 WRIT PETITION NO.13115 OF 2017

NAJMUN BANDU MULANI AND OTHERS
VERSUS
NASIR MUSTAK SHAIKH AND OTHERS

.....
Advocate for Petitioners : Mr. Satyajit S. Bora
Advocate for Respondents 1, 2, 3A, B, E and 4 : Mr. Y.D. Kale h/f
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CORAM : V. K. JADHAV, J.
DATED : 8th JANUARY, 2020

PER COURT:-

1. Heard both sides.
2. The petitioners are original plaintiffs, instituted the suit bearing R.C.S. No. 50 of 2013 for decree of declaration and injunction wherein the respondents-original defendants have also filed a counter claim, claiming decree of perpetual injunction. Learned Civil Judge, Junior Division, Shrigonda, District Ahmednagar, by judgment and decree dated 6.8.2016 dismissed the suit with costs. However, decreed the counter claim of the respondents-defendant Nos. 1 and 2 and permanently restrained the petitioners-plaintiffs from creating any kind of obstruction to the possession the respondents-defendant Nos. 1 and 2 over the suit property.
3. Being aggrieved by the same, the petitioners-plaintiffs have preferred Regular Civil Appeal No. 313 of 2016 and pending the said

appeal, filed an application Exh.20 for staying the effect of the judgment and decree passed by the trial court till final disposal of the appeal. Learned District Judge, Ahmednagar by impugned order dated 15.9.2017 below Exh.20 in Regular Civil Appeal No. 313 of 2016 rejected the said stay application. Hence, this writ petition.

4. Though learned counsel appearing for the petitioners has vehemently made submissions on merits, the same are required to be considered by the first appellate court in the pending appeal. It appears that during pendency of appeal before the District Judge, Ahmednagar, the District Court has been created at Shrigonda and the process for transfer of matters from Ahmednagar District Court to Shrigonda is in progress. In view of the same, on transfer of Regular Civil Appeal No.313 of 2016 to the District Court Shrigonda, the District Court, Shrigonda, shall dispose of the said Regular Civil Appeal No. 313 of 2016 registered at Ahmednagar District Court, within a period of one year.

5. Writ petition is accordingly disposed of.

(V. K. JADHAV, J.)

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