

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 822 OF 2020

Zeal Education Society through .Petitioner
its founder director Sambhaji Maruti Katkar

Vs.

Shivajirao Jagannath Patil (since deceased) & ors. .Respondents

Mr. Sukand Kulkarni a/w Mr. Abhijeet Devkhile i/b. Mr. Jitendralal
Gorane, Advocate, for the Petitioner

CORAM : REVATI MOHITE DERE, JJ.

DATE : 28.01.2020

P. C.

. Heard learned counsel for the Petitioner.

2. By this Petition, the Petitioner has impugned the order dated 06.01.2020 passed by the learned District Judge – 8, Pune, by which the Petitioner’s Application filed in R. C. A. No. 614 of 2019 for ad-interim ex-parte injunction came to be rejected.

3. Learned counsel for the Petitioner states that the Petitioner has filed a suit in the Court of the learned 5th Additional Small Cause Judge and Jt. C. J. S. D., Pune for specific performance of a contract and injunction. He submits that the trial Court vide order dated 02.02.2009

Corrected vide order dtd. 06.11.2020

passed below Exh. 5 in Special Civil Suit No. 1719 of 2006 restrained the Respondents (Original Defendant Nos. 1 to 28) from transferring the suit land to any other person and also restrained them from creating third party interest in the suit land till disposal of the suit. He submits that the said order dated 02.02.2009 was not challenged by any of the Defendants. On 30.09.2019, the trial Court dismissed the Petitioner's suit, pursuant to which the Petitioner filed an Application seeking stay to the execution of the Judgment and Decree passed in Special Civil Suit No. 1719 of 2006 and extension of the injunction order dated 02.02.2009 for a period of eight weeks. The said Application was allowed and the trial Court continued the said order dated 02.02.2019 for a period of eight weeks from 05.11.2019 i. e. till 04.01.2020. It appears that the Petitioner challenged the Judgment and Decree passed in Special Civil Suit No. 1719 of 2006 before the Appellate Court i. e. the District Court, Pune. The said Appeal was filed on 19.12.2019. Alongwith the said Appeal, the Petitioner filed an Application and sought ad-interim relief, which was rejected by the learned District Judge, Pune vide order dated 06.01.2020.

4. Without going into the merits of this Petition and since the Application is pending before the Appellate Court, it would be

appropriate to continue the order dated 02.02.2009 passed by the trial Court till all the Respondents appear before the Appellate Court. It is made clear, that the protection is granted only till all the Respondents appear before the Appellate Court i. e. notices are served. It is also made clear that this Petition has not been considered on merits and as such, all contentions of all parties are kept open.

5. Accordingly, the Petition is disposed of in the aforesaid terms.

6. The Appellate Court to consider the prayer for interim relief on its own merits, in accordance with law, after hearing the Respondents, uninfluenced by the protection granted by this Court.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)