

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**CIVIL APPLICATION NO.3833 OF 2006
IN SA/306/2006**

SMT. BEGUMBEE W/O ABDUL GAFOOR
VERSUS
ABDUL RAHIM S/O ABDUL KARIM AND OTHERS

.....
Advocate for Applicant : Mr. J. R. Shaikh
Advocate for Respondent No.2 : Mr. Mujtaba Mustafa
Advocate for Respondent No.1 : Mr. T. Vinod
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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 29-07-2021.

ORDER :

1. Present application has been filed for injunction.
2. Present applicant/appellant is the original plaintiff. Her Regular Civil Suit No.125 of 2000 was dismissed by 2nd Joint Civil Judge, Junior Division, Aurangabad on 07-09-2004, it was for partition and separate possession. Thereafter she filed Regular Civil Appeal No.257 of 2004 before District Court, Aurangabad. That appeal was heard by learned 3rd Adhoc Additional District Judge, Aurangabad and it was dismissed on 10-02-2006. Then she filed the second appeal which has been admitted by this Court by framing substantial questions of law on 22-07-2008.

3. An important point to be noted is that along with the second appeal, the present application was filed in 2006, however, no orders were passed nor the party especially the applicants pointed out the application for interim injunction. It appears that it was pointed out only on 07-08-2020 and then the notice was issued to the respondents. No doubt thereafter when the notices were returned it was found that certain respondents have expired and then it took time to bring the legal representatives on record. However, though the learned Advocate for the applicants herein has strongly stated that this application be heard, it is to be noted that since 2006 no efforts were taken by the applicant to have any order in their favour. What was prayed in the appeal was that the respondents/original defendants No.1 to 5 be restrained from alienating, transferring and/or creating third party interest in the suit properties.

4. There is an attempt by the learned Advocate for the applicant to say that now there is an attempt on the part of the respondents to create third party interest, however, he failed to satisfy this Court as to how whatever the steps now the respondents are trying to take, would give a cause of action for the application which is going

back to the date in 2006. When since 2006 till today the applicants have never bothered to look at the application, all of a sudden in 2021 she cannot get a cause of action to seek injunction. If at all, any such contingency has arrived, now the applicant is at liberty but it cannot be considered in the said application which was filed in 2006, it suffers from delay and laches. Hence, the application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-