

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

27 WRIT PETITION NO.1365 OF 2017

**ANANDA SHANKARRAO JANJALE
VERSUS
VIKAS JAGANNATH KALE AND OTHERS**

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Advocate for Petitioner: Mr. V. R. Dhorde
Advocate for Respondents No.2,8,9,10A,10B,11&12:
Mr. S. P. Salgar h/f. Mr. N. V. Gaware

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CORAM: SMT. BHARATI H. DANGRE, J.

DATE: 14th FEBRUARY, 2022

PER COURT:

1. Heard the learned Counsel for the Petitioner and the learned Counsel for the Respondents.

2. The Petitioner is aggrieved by an order passed on 07.11.2013 below Exhibit-5 and Exhibit-54 in Special Civil Suit No.216/2010 instituted by the Original Plaintiffs (Defendant Nos. 1, 2, 3 and 4).

In the said suit, Petitioner came to be impleaded as Defendant No. 9 and the house property involved is located in CTS No. 4671 and 4670/2. The claim of the Respondent by the suit is to the effect that he had purchased the house property

and even had mutated it in his name and even he has been detained the shop licence and is running 'Laxmi Vadapav Centre' in the suit property.

3. In the Suit instituted for partition, possession, declaration and perpetual injunction, temporary injunction came to be granted on 07.11.2013 thereby restraining the Defendant Nos. 1 and 9 from creating any third party interest and the Defendant No. 9 was temporarily restrained from obstructing Plaintiffs joint possession with other Defendants till the final decision of the Suit.

Another order passed below Exhibit-54, restraining the Defendant No. 9 from obstructing the Plaintiffs joint possession with other Defendants in the suit property till final decision of the present Suit. In fact the order passed on Exhibit-54 granted a similar relief to the Plaintiffs creating an identical embargo upon the Defendants.

4. An Appeal filed by Defendant No. 9, the Appeal came to be dismissed on 02.12.2016.

Aggrieved by the said order, the Petitioner approached this Court and this Court by expressing a doubt in respect of *prima facie* findings concurrently recorded by both the Courts below in the backdrop by the material available on record, granted partial *ad-interim* stay to the effect of the impugned order, to the extent that it restrained the Petitioner from obstructing the Plaintiffs joint possession in the suit properties till the next date. This order is in operation since 01.02.2017.

In the wake of the time line it can be seen that this order continue to govern the parties from 01.02.2017. I am informed that issues have been settled in the said Suit, which is pending since the year-2010.

In my considered view, interest of Justice would be better served if the learned Trial Judge is directed to expedite and conclude the proceedings in S.C.S. No.216/2010 within a period

of six (06) months from today. Needless to state that the parties shall render their cooperation to the learned Judge in disposal of the said Suit and the aforesaid order is justified in the wake of the long pendency of the Suit and the position holding the field between the parties since then. But as far as the injunction granted in favour of the Plaintiffs restraining the Defendant Nos. 1 and 9 from creating any third party interest in the Suit property granted by the learned Civil Judge, Senior Division, Ahmednagar on 07.11.2013 which has been subsequently held by the Appellate Court shall remain in operation till the culmination of the Suit.

5. Writ Petition is disposed of with the aforesaid observation.

Till culmination of the Suit, the order passed by the High Court on 01.02.2017 shall continue to govern the parties with a further undertaking being given on behalf of the Petitioner / Defendant No. 9 that he shall not

create any third party interest in the Suit
property.

[SMT. BHARATI H. DANGRE, J.]

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