

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

WRIT PETITION NO.7028 OF 2022

**MAHADEV DAGADU PAWAR AND ANOTHER
VERSUS
GURUBAXSINGH SARDAR JASWANTSINGH PLAYA AND ANOTHER**

. . .
Advocate for Petitioners : Mr. Arvind R. Kawade.

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CORAM : MANGESH S. PATIL, J.

DATED : 08 JULY 2022

PER COURT :

Heard the learned advocate for the petitioners.

2. The petitioners are the defendants in a suit for specific performance of an agreement to sell of the suit property.

3. By way of temporary injunction, they were restrained from creating any third party interest. However, while deciding the Appeal From Order No. 80 of 2012 by the order dated 6 August 2012, they were granted liberty to apply to the trial court, if they intended to alienate or create third party interest.

4. Pursuant to such liberty, they submitted an application (Exh.65) seeking permission of the trial court to sell out the suit property.

5. The court cannot be a party to the dispute. The legislature under section 52 of the Transfer of Property Act, in its wisdom has put a caveat to the effect that all the alienation or interest created in the suit properties would be subject to the outcome of the suit.

6. The anxiety of the petitioners seems to be that in spite of the owner of the suit property, neither the suit is being decided nor are they able to reap the fruits by selling the property. The anxiety of the petitioners can certainly be appreciated. It is the suit of the year 2011 and still awaiting decision.

7. Though this court in peculiar circumstances cannot cause any interference in the order under challenge, it would be appropriate to expedite the trial.

8. Writ petition is dismissed.

9. The suit is expedited.

(MANGESH S. PATIL, J.)

Tandale/-