

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

WRIT PETITION NO.7448 OF 2022

**UTKARSH BHASKAR THOMBRE AND OTHERS
VERSUS
DHRUV SUNIL KALE THROUGH HIS MOTHER SWATI SUNIL KALE
AND OTHERS**

Mr. Girish K. Thigale (Naik), Advocate holding for
Mr. S.V. Deshmukh, Advocate for the Petitioners
Mr. J.N. Singh, Advocate for Respondent Nos. 1 to 3

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CORAM : MANGESH S. PATIL, J.

DATE : 20 JULY 2022

PER COURT:-

Heard.

2. Issue notice to respondents. Learned advocate Mr. Singh waives service for respondent Nos. 1 to 3.

3. At the request of the parties, the petition is taken up for final hearing at the stage of admission.

4. The petitioners who are the respondents before the lower appellate Court are aggrieved by the order on the application below exhibit 5. By the said order, they were called upon to furnish an undertaking in lieu of injunction in terms of the prayer made by

the respondents/appellants. On failure to furnish an undertaking, a further order has been passed on application below exhibit 43 recording failure of the petitioners herein in filing undertaking and further directing the advocate of the respondents herein to serve the present petitioners by registered post A.D. and to file service report, in all probability, in contemplation of passing of some order in tune with the earlier order passed on application below exhibit 5. These orders read as under:

“Order below Exhibit 5

1. Learned Advocates for both sides parties to argue appeal itself on next date i.e. 21.04.2022.
2. Respondents No.2 to 4 shall file an undertaking to the effect that they will not alienate or transfer or create third party interest in the suit property till the disposal of present appeal.
3. No order as to costs.

“Order below Exhibit 43

1. Application (Exh.43) is allowed.
2. Respondents No.2 to 4 are directed to give understanding as per directions of my learned Predecessor dated 06.04.2022 to the effect that they will not alienate or transfer or create third party interest in the suit property till disposal of the present appeal. They are directed to give such understanding positively on or before next date failing which coerce order will be passed against them.

3. In the meantime parties to maintain status-quo in respect of suit property as appearing at 11.40 a.m. of 9th June, 2022.

4. Learned advocate of the appellants shall serve this order to the respondents no.2 to 4 and their advocate by registered post A.D. and submit service report on or before next date.

5. Learned advocate for both the sides unanimously submit that miscellaneous civil appeal has been listed for final arguments on 25-07-2022.

6. Considering the nature of the orders and the proceeding before the lower appellate court, I am not inclined to cause any interference. The interest of justice would be subserved by directing the lower appellate court to decide the appeal expeditiously and in any case within a period of four weeks from today.

7. The writ petition is disposed of.

8. Office shall communicate the order to the lower appellate court immediately by e-mail.

[MANGESH S. PATIL]
JUDGE

S.P. Rane