

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

951 WRIT PETITION NO.8766 OF 2022

PANDURANG PUNJA EDKE DIED THROUGH LRS NANDKUMAR
PANDURANG EDKE AND OTHERS
VERSUS
BHARAT DNYANDEO LONDHE

...

Advocate for Petitioners : Mr V.D. Hon, Senior Counsel i/by Mr Umakant U.
Wagh

Advocate for respondent sole : Mr Prashant R. Nangare

CORAM : SANDEEP V. MARNE, J.
DATE : 8th DECEMBER, 2022

PER COURT :

1. By this petition, petitioners challenge order dated 29.06.2022 passed by the District Judge-1, Ahmednagar granting injunction against them from causing obstruction to the possession of the respondent/plaintiff.

2. The respondent/plaintiff instituted the suit bearing RCS No. 121/2010 for injunction simplicitor. During the pendency of the suit, interim injunction was granted in favour of the respondent/plaintiff. On 6th March, 2018, the suit of the respondent/plaintiff was dismissed holding that the respondent/plaintiff is not in possession of the suit property. Aggrieved by the Judgment and decree of the trial Court, the respondent/plaintiff filed appeal before the District Court and in appeal, application dated 19.03.2018 was filed seeking restraint order of temporary injunction against petitioners.

3. It appears that the application for temporary injunction filed possibly along with the appeal on 19.03.2018 was taken up for hearing by the District Court four years later on 29.06.2022. By considering the rival contentions of the parties and considering the merits of the matter, the District Court has proceeded to allow the application vide order dated 19.03.2022. In my view, instead of adopting such course of action, the District Court ought to have heard the appeal itself as period of four years had elapsed since filing of the appeal. It is also fact that during the period of four long years from the date of dismissal of the suit on 06.03.2018 till the passing the order by the District Judge on 29.06.2022, there was no injunction operating against petitioners.

4. In that view of the matter, the present petition can conveniently be disposed of by passing the following order.

ORDER

- (i) Parties to maintain status quo till the decision of the appeal bearing Regular Civil Appeal No. 128/2018.
- (ii) The District Judge-1, Ahmednagar is requested to expedite the hearing of Regular Civil Appeal No. 128/2018 and to make an endeavour to decide the same as expeditiously as possible and preferably within a period of six months from today.
- (iii) The writ petition is accordingly disposed of.

[SANDEEP V. MARNE, J.]

mta