

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4006 OF 2019

Jaysing Khashaba Chavan

.. Petitioner

Versus

Dnyandeo Ganpati Karande & Ors.

.. Respondents

-
- Mr. Dilip Bodake for Petitioner
 - Mr. Bhushan Walimbe for Respondent No. 1
-

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 05, 2022

P.C.:

1. Heard Mr. Bodke, learned Advocate for Petitioner and Mr. Walimbe, learned Advocate for Respondent No. 1.

2. Both the learned Advocates have fairly suggested that in the present case, Exh. 5 Application came to be allowed in favour of Plaintiff (Petitioner herein) in the year 2011 and during pendency of the Misc. Appeal filed by Defendants (Respondents herein), the said injunction was continued. In 2019, learned Appellate Court reversed the injunction order passed on Exh. 5 passed by the Trial Court pursuant to which the present Writ Petition has been filed in the year 2019. Admittedly, the injunction has been continued since 2011 till date.

3. The present petition has been filed to challenge the order dated 20.02.2019 passed by the learned Extra Joint District Judge, Karad,

District Satara in Misc. Civil Appeal No. 26 of 2011 whereby order below Exh. 5 dated 05.04.2011 passed by the learned Civil Judge Junior Division, Karad in Regular Civil Suit No. 38 of 2011 stands quashed and set aside. Both learned Advocates have made a joint request stating that the RCS No. 38 of 2011 is pending hearing and final disposal before the Trial Court and if appropriate directions are given for expeditious disposal of the said Suit, the dispute between the parties can be taken to its logical end.

4. Considering that the original RCS Suit No. 38 of 2011 is still pending, it would be trite to direct the Trial Court to dispose of the same as expeditiously as possible and in any event, within a period of one year from today. Order dated 20.02.2019 stands quashed and set aside by consent of the parties.

5. Mr. Walimbe, learned Advocate for Respondent No. 1 submitted that due to subsequent development and change in Gat Map of the suit property, an Application was filed by the original Defendants before the Consolidation Officer for correction of Gat map. However in view of pendency of the present petitions and the long standing injunction, the Application came to be rejected on that sole ground alone. He has therefore sought liberty to make a fresh Application before the Consolidation Officer. In that view of the matter, Respondents are at liberty to take out a fresh Application before the concerned statutory Authority. If any such fresh Application is filed, notice of the same

shall be given to the Petitioner. The concerned statutory Authority is directed to hear both the sides before passing any orders on such Application filed by the Respondents.

6. The statutory Officer as well as the learned Trial Court should not be influenced by any of the orders passed by this Court and decide the same on its own merits and in accordance with law.

7. At the joint request of both the learned Advocates, it is further directed that in the event if Respondents make an Application before the Consolidation Officer, the same shall be decided within a period of three months from today.

8. It is further clarified that the Consolidation Officer shall not keep the Application for seeking revised Gat Mas in respect of the suit property pending in view of the pendency of the suit and shall hear both the parties and decide such Application on merits and in accordance with law.

9. All contentions of the parties are expressly kept open.

10. With the directions given in paragraph 4 above, Writ Petition stands disposed of.

11. In the meanwhile, the injunction granted by the learned Trial Court on 05.04.2011 which has been continued till date shall remain in operation till final disposal of the suit.

[MILIND N. JADHAV, J.]