

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6912 OF 2015

Brijlal Mehrumal Jagwani

.. Petitioner

Versus

Prashant Prabhakar Deshpande and Anr.

.. Respondents

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- Mr. Siddharth C. Wakankar a/w. Ms. Aishwarya Bapat, Advocates for Petitioner.
 - Mr. G.S. Godbole, Senior Advocate i/by Mr. Jaydeep Deo, Advocate for Respondent No.1.
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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 20, 2022.

P.C.:

1. Heard Mr. Wakankar, learned Advocate appearing for Petitioner and Mr. Godbole, learned Senior Advocate appearing for Respondent No.1 at length.

2. On 31.08.2017, this Court passed the following order:-

“1. This Petition has been moved for urgent reliefs.

2. This Petition challenges the order dated 20th June 2015, passed by the learned District Judge, Pune filed in a Suit for declaration and permanent injunction. By the impugned order the Respondent’s Appeal from the order of the Trial Court allowing the injunction application of the Petitioner was allowed. Thus the injunction against the Respondent came to end.

3. The urgency in moving this Application now in respect of an order dated 20th June 2015 has been explained by the Petitioner in additional affidavit dated 31st August, 2017, filed in Court. According to the Petitioner, earlier on a police complaint being filed in 2016 the Respondent stopped any attempt to construct on the suit land. However on visiting the site, now, they have learnt that a play area has been developed

on the suit property. They seek status quo as of today till the hearing of the Petition.

4. Mr. Godbole, learned Sr. Counsel appearing for the Respondent No.1 states that the Suit property stands transferred to the Balaji Co-operative Housing Society of which Respondent No.1 is the Chairman. On instructions Mr. Godbole states that the Respondent No.1 as the Chairman of the Balaji Co-operative Housing Society states that any construction activity done on the Suit property would be subject to the result of this Petition and that the Respondent No.1 alongwith the Housing Society would claim no equities.

5. In the above view, no ad-interim relief is called for at this stage. The Petition is adjourned to the next CMIS date i.e. 21st February, 2018, to which this Petition is posted.”

3. Admittedly, the statement made in the above order binds the parties. Much time has lapsed pursuant to the passing of the above order. It is informed across the bar that the suit has not progressed at all since then. Hence it is directed that the statement recorded in paragraph No.4 of the above order shall be maintained by the Society till the final disposal of the suit.

4. Mr. Wakankar submitted that the grievance of the Petitioner which is adjudicated by the learned Trial Court in the impugned order dated 20.06.2015, *inter alia*, pertains to the deed of correction and it needs to be revisited. I do not wish to do the same and express any opinion which would otherwise influence the learned Trial Court.

5. In view of the fact that the suit proceedings have been remained pending before the Trial Court since long, subject to the above embargo on Respondent No.1, the learned Civil Judge Junior Division, Pune is requested to dispose of the trial in the pending suit

within a period of eight (8) months from today without being influenced by any of the observations made in the impugned order dated 20.06.2015.

6. All contentions of the parties are expressly kept open before the Trial Court.

7. With the above directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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