

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.15248 OF 2022

Ramchandra Nago Dabhade

.. Petitioner

Versus

Janu Nago Dabhade and Ors.

.. Respondents

.....

- Mr. Yogesh M. Birajdar for Petitioner

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 12, 2022.

P.C.:

1. Heard Mr. Birajdar, learned Advocate for Petitioner.
2. Perused the impugned order dated 08.08.2022 passed by District Judge-3, Panvel.
3. Mr. Birajdar submitted that he is partly aggrieved with the impugned order in as much as by the said order parties have been directed by the learned Appellate Court to maintain *status quo* in respect of the suit property until the preliminary decree is passed.
4. Perusal of the impugned order reveals that adequate reasons have been given by the learned Appellate Court in respect of the rights of the warring parties who incidentally belong to the same family and are litigating in a partition suit. Record indicates that Petitioner applied for permission seeking to repair his house No.496 standing on the suit property on the ground that it was old and in a dilapidated condition. It is seen that before the Appellate Court, despite prodding by the Court, Petitioner did not file any document or photographs showing

and expressing his desire and intent to repair the house. On the contrary, Plaintiff (Respondent herein) filed photographs before the Appellate Court and a specific finding has been returned by the Appellate Court recording that the photographs show that a completely new construction is going on and the construction has reached up to the plinth level.

5. Admittedly, record indicates that Petitioner is not residing nor the suit house being constructed is the dwelling house of Petitioner. Record further indicates that Petitioner is residing elsewhere though it was his case before the learned Trial Court as also the Appellate Court about hardship. In that view of the matter the learned Appellate Court has dismissed the Appeal filed by Respondents against the order dated 27.09.2021, but in my opinion has correctly directed the parties to maintain status quo in respect of the suit property till the preliminary decree is passed. The impugned order has been passed after due consideration of the facts and circumstances on record, as also, the pleadings of parties giving adequate reasons therefor and calls for no interference. It is sustained.

6. Needless to state that Petitioner as well as the parties to the suit proceedings shall be at liberty to seek expeditious hearing in respect of the preliminary decree, if they so desire.

7. Writ Petition is dismissed.

[MILIND N. JADHAV, J.]