

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

962 APPEAL FROM ORDER NO.27 OF 2020
WITH CA/7287/2020 IN AO/27/2020

JAISINGH GYANOBA DHAWALE
VERSUS
SATWAJI GYANOBA DHAWALE

...
Advocate for Petitioner : Mr. Mandlik Pratap P.
Advocate for Respondent : Mr. G. K. Naik Thigle
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 26/07/2023

PER COURT :

By the present Appeal From Order, the appellant has challenged the interim order dated 21/03/2020 passed by the District Court in the pending appeal whereby the Appellate Court has found that the appellant has breached the interim injunction order passed in Regular Civil Appeal No.69 of 2013. The Appellate Court has held that in spite of the orders passed by the Appellate Court, the appellant has constructed on the first floor of the suit property and that the appellant has violated the order of the Court not to make further construction on the suit property. The Appellate Court having found that the appellant has violated its orders has passed a detailed order dated 21/03/2020 as under : -

- "1. The application is hereby allowed with costs.*
- 2. The respondent is hereby detained in Civil Prison for term of 30 days.*
- 3. The order of Civil Prison to take effect on payment of requisite subsistence allowance by the applicant within 15 days.*
- 4. The ground floor of the suit property i.e. G-19-11 situated at Dhawale Corner, CIDCO, Nanded is hereby attached and said order of attachment shall remain in force till the respondent remove the construction made by him over first floor of suit property.*
- 5. If the respondent failed to obey the order of the court within one year then the property attached be sold and out of proceeds the amount of Rs.1,00,000/- be apid as compensation tot he applicant as well as cost of said application and the balance amount be paid to the respondent.*
- 6. The warrant of attachment be issued accordingly.*
- 7. The said order to take effect of expiry of 30 days from today."*

2. Having heard the learned Advocate for the parties, it would be more appropriate that this Court direct Appellate Court to decide the pending appeal, and direct the appellant not to make further construction on the suit property. The Clause 2 of the order dated 21/03/2020 is deleted, and it is further directed that, the

construction on the first floor of the suit property be attached and sealed. The Superintendent of the Appellate Court to carry out the attachment and sealing order.

3. The appellant is prohibited for making any construction on the first floor hereinafter. The appellant is granted two weeks time to remove construction or any other material kept on the first floor of the suit property. The attachment and sealing to be carried out thereafter. The remaining part of the order dated 21/03/2020 would remain as it is. The Appellate Court to decide Regular Civil appeal No.69 of 2013 as expeditiously as possible, and in any event, within a period of three months from the date of the receipt of the order.

4. Record and proceedings, received in this Court be sent back.

5. The Appeal From Order disposed of. All pending applications are disposed of. The attachment and sealing done in pursuance of this order would be subject to the final outcome of the appeal.

6. In case of violation of this order, the parties are at liberty to approach this Court.

(ARUN R. PEDNEKER, J.)

vj gawade/-.