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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8174 OF 2023

Kevalbai Vitthal Bhoibar and Another PETITIONERS

VERSUS

Prakash Kerba Patil Shinde (Died) LRs RESPONDENTS

.....
Mr. Vikrant S. Valse, Advocate for the petitioners
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 12th JULY, 2023

ORDER :

1. The petitioners are aggrieved by the order passed by the learned District Judge-1, Nilanga in IA No. 1 of 2021, filed by the respondent under Order 39, Rules 1 and 2 read with section 151 of the Civil Procedure Code, thereby granting injunction against the petitioners restraining them from creating third party interest in the suit property or alienating it or from creating any charge over it, till disposal of the appeal.
2. Heard learned advocate for the petitioners. Perused the memo of the writ petition, documents annexed along with it and the impugned order.
3. It appears from the record that the suit was initially filed in

the year 2011 i.e. Regular Civil Suit No. 280 of 2011, which was decreed in the year 2013. In the appeal, the matter was remanded back to the Trial Court and after remand, the same is decreed in favour of the petitioners in the year 2019. The said judgment and decree is challenged by the respondents, by filing Regular Civil Appeal No. 6 of 2019, which is pending before the District Court.

4. According to the petitioners, the decree is executed and they have received possession of the suit property, in execution of the said decree. Now, by the impugned order, they are restrained from creating any third party interest in the suit property.

5. On perusal of the record and after hearing the learned advocate for the petitioner, this Court is of the opinion that it is not necessary to interfere in the order impugned in the present writ petition, at this stage.

6. Learned advocate for the petitioners submits that though the hearing of the appeal is expedited, as per the impugned order, which is passed on 23rd November, 2021 till date, the appeal is not decided. He, therefore, seeks direction to the Appellate Court to decide the appeal within stipulated period.

7. Considering the fact that already hearing of the appeal is expedited, the Appellate Court shall decide the same within a period of six months from the date of receipt of writ of this order. With these directions, the writ petition is disposed of.

[NITIN B. SURYAWANSHI]
JUDGE

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