

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1642 OF 2023

**RUPCHAND DATTATRAYA BHINTADE AND ANOTHER
VERSUS
MINAL MOHAN BHINTADE AND OTHERS**

...

Advocate for Petitioners : Mr. Rahul R. Karpe
Advocate for Respondent No.1 : Mr. Mahesh Deshmukh, Advocate
h/f Mr. Vijay S. Wakale

...

WRIT PETITION NO.1692 OF 2023

**RUPCHAND DATTATRAYA BHINTADE
VERSUS
MOHAN DATTATRAYA BHINTADE AND OTHERS**

...

Advocate for Petitioners : Mr. Rahul R. Karpe
Advocate for Respondent Nos.1&3 : Mr. Mahesh Deshmukh,
Advocate h/f Mr. Vijay S. Wakale

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 10th MARCH, 2023

PER COURT :

1. By Writ Petition No.1692/2023, filed under Articles 226 and 227 of the Constitution of India, petitioner challenges order dated 01/12/2022, passed by learned District Judge-2, Shrigonda, in Misc. Civil Appeal No.114/2019 and the order dated 22/10/2019 passed by learned Civil Judge, Senior Division, Shrigonda, below Exhibit-5 in Special Civil Suit No.24/2017.

2. In Writ Petition No.1642/2023, petitioners have

challenged the order dated 01/12/2022, passed by learned District Judge-2, Shrigonda, in Misc. Civil Appeal No.23/2021 and has sought rejection of application Exhibit-5 in R.C.S. No.133/2020.

3. Facts which are not in dispute are that petitioner in both these petitions has filed Special Civil Suit No.24/2017 against respondents seeking relief of partition and separate possession of the suit properties, claiming his 1/3rd share. In the said suit, application Exhibit-5 was filed seeking temporary injunction against respondents/defendants that pending the civil suit, defendants shall not create third party interest in respect of the suit properties. The suit was resisted by defendants/respondents by filing written statement and say to the application Exhibit-5 of petitioner. Trial Court partly allowed the application Exhibit-5 and granted injunction against defendants that they should not create third party interest only in respect of land Gut No.434. Said order is confirmed by the appellate Court in Misc. Civil Appeal No.114/2019.

4. After hearing learned advocates for respective parties and on perusal of the impugned orders, this Court is of the considered view that no interference is called for in the impugned order as learned advocate for respondents/defendants has made a statement, on instructions, that the defendants are not willing to create any third party interest in respect of land Gut No.435. By

recording the said statement as undertaking to this Court, both the writ petitions are dismissed.

5. Considering the fact that first suit is of the year 2017, trial of the suit i.e. Special Civil Suit No.24/2017 and Regular Civil Suit No.133/2020 is expedited.

(NITIN B. SURYAWANSHI, J.)