

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3136 OF 2016

Parvez Abdulgani Shaikh

.. Petitioner

v/s.

Shriniwas Nagappa Penta
and Anr.

.. Respondents

...

Mr. Ishan Kapse i/by. Mr. Surel Sunil Shah, Advocate for the
Petitioner.

...

CORAM : SANDEEP V. MARNE, J.

DATED : JULY 28, 2023.

P.C. :

1. By this petition, Petitioner challenges judgment and order dated October 21, 2015 passed by District Judge-3, Solapur allowing Civil Misc. Appeal No.111 of 2015 and setting aside the order dated June 11, 2015 passed by the Trial Court granting interim injunction in favour of the Petitioner.

2. Petitioner is Plaintiff No.1 in Special Civil Suit No.26/2014. Petitioner has filed the suit jointly with Shamrao

Bhimrao Chavan, who is Plaintiff no.2 in the suit who has chosen not to challenge the order of the District Court. Petitioner prayed for limited interim injunction to restrain the Defendant from creating third party rights in the suit property. The interim injunction as sought for was granted by the Trial Court by its order dated June 11, 2015. However, shortly thereafter the lower Appellate Court has set aside the order of the Trial Court on October 21, 2015.

3. Though the suit is pending since the year 2014 (except for a limited period from June 11, 2015 to October 21, 2015), no protection has been granted in favour of the Petitioner by this Court as well. The lower Appellate Court has recorded a finding that, both Plaintiff No.1, as well as Plaintiff No.2 had the knowledge of the consent decree and the execution proceedings by virtue of which the Defendant obtained possession of the suit property. That Plaintiff no.1 purchased the property from Plaintiff no.2 with full knowledge of the consent decree.

4. Considering the fact that acquisition of property by Plaintiff no.1 was with full knowledge of the consent decree, as well as the fact that there has been no interim protection in favour of the Petitioner since the year 2014 (except for a short duration from June 11, 2015 to October 21, 2015), no case is made out by the Petitioner warranting interference by this Court

in exercise of jurisdiction under Article 226 of the Constitution of India. Writ Petition, being devoid of merits is **dismissed** with no orders as to costs.

NEETA
SHAILESH
SAWANT

(SANDEEP V. MARNE, J.)

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NEETA SHAILESH
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Date: 2023.07.28
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