



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

938 CRA NO. 84 OF 2023

**RAM MANDIR VAIJAPUR THR TRUSTEE JAGDISH
RANCHHODDAS VAISHNAV THR GPA N J VAISHNAV**

VERSUS

THE ADDITIONAL COLLECTOR AURANGABAD AND ORS

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Advocate for the Petitioner : Mr. Kale Yogesh D.

AGP for Respondents-State: Mr. V. S. Badakh

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 11/01/2024.

P. C. :

1. Heard rival submissions.
2. The contesting respondents No.6 & 7 despite service, remained absent.
3. The appellant, who is original defendant No.1, has challenged the order of learned Jt. Civil Judge (Senior Division), Vijapur (herein after referred to as 'the trial court') dated 03/05/2023 whereby the application for temporary injunction filed by the present respondent Nos.6 & 7 at Exhibit-5, has been rejected alongwith the applications Exhibit Nos.16, 35 and 42 filed by the present appellant No.1.
4. The learned counsel for the appellant / defendant No.1 pointed out that vide application Exhibit-16 the appellant had

raised objection to the jurisdiction of the learned trial court to entertain the dispute raised by the present respondent Nos. 6 & 7 in their RCS No. 64 of 2023. According to him, the dispute needs to be dealt under the provisions of Hyderabad Atiyat Inquiries Act, 1952. He pointed out the Atiyat Court under the provisions of aforesaid Act is already dealing with the dispute raised in this suit. Moreover, one writ petition is also pending in this court, wherein the present appellant has challenged the stay order passed by the Additional Collector, Aurangabad being an Atiyat Court.

5. Though the documents on record show that simultaneous proceedings are going on between the contesting parties before Atiyat Court as well as Civil Court, but the learned trial court while rejecting the applications of respondent Nos. 6 & 7 as well as the present appellant has not given any reason as to why the prayers in application Exhibit-16 cannot be granted. On going through the impugned order dated 03/05/2023 it appears that the learned trial court has not discussed anything about the objection raised by the present appellant / defendant No.1 regarding its jurisdiction. Therefore, considering this aspect following order is passed.

ORDER

- A) The CRA stands allowed and the impugned order dated 03/05/2023 passed by the learned trial court to the extent of rejection

of application Exhibit-16 filed by the present appellant is quashed and set aside.

- B) The learned trial court is directed to decide the application Exhibit-16 afresh and by considering the provisions of Hyderabad Atiyat Inquiries Act, 1952 and on its own merit within six months from the date of receipt of this order.
- C) All the contesting parties are at liberty to submit their fresh arguments.
- D) The CRA is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)