

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13297 OF 2024

M/s. Shivshankar Builders & Developers

.. Petitioner

Versus

Eknath Sadashiv Kandpile

(since deceased) through his legal heirs

Shakuntala Eknath Kandpile & Ors.

.. Respondents

.....

- Mr. Surel Shah, Senior Advocate a/w Mr. Ravi Asabe for Petitioner
- Mr. Sachin Punde for Respondent Nos. 1.1 & 1.2

.....

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 24, 2024

P. C.:

1. Heard Mr. Shah, learned Senior Advocate for Petitioner and Mr. Pune, learned Advocate for Respondent Nos. 1.1 & 1.2.

2. By virtue of the impugned order dated 09.08.2024 passed by learned Trial Court below Exh. 90 in SCS No. 411/2018, Court has in view of the timeline and the previous order of the Supreme Court in the present case referred the parties for mediation since the parties had agreed to go for mediation before the Supreme Court. Though the impugned order is not principally opposed by Mr. Shah in present Writ Petition, he would point out to the Court that in the interregnum, Defendants are creating further third party rights. According to his instructions, third party rights are created in favour of at least two additional parties by the Defendants. Without going into merits of the

matter, it would be appropriate at this stage to grant the order of *status quo*. Hence, Defendants to the Suit are specifically directed and enjoined by this Court from creating any further third party rights in respect of the suit property.

3. There is one dichotomy which is also expressed by Mr. Shah which can be seen on perusing the facts of the present case. He would submit that the order principally pertains to Plaintiff and Defendants to go for mediation but since admittedly Defendant Nos. 1.1 and 1.2 have admittedly created third party rights, there is no clarity on behalf of Defendants as to which parties shall go for mediation.

4. Mr. Punde, learned Advocate appears for Defendant Nos. 1.1 and 1.2. He agrees with the facts pleaded by Mr. Shah which have been mentioned herein above and in his usual fairness informs the Court that it would be proposed Defendants other than Defendant Nos. 1.1 and 1.2 who would be the interested parties. In this view of the matter parties are directed by this Court to maintain absolute *status quo* in respect of the Suit properties.

5. Mr. Shah seeks leave of the Court to implead proposed Defendants as Respondents in the present Writ Petition. Leave to amend is granted. Amendment is permitted to be carried out forthwith. Re-verification stands dispensed with. Copy of the amended Petition shall

be served on all Respondents including the proposed Defendants within a period of one week from today.

6. Petitioners are directed to serve copy of this Petition along with amended copy of Writ Petition on all Respondents and file affidavit of service to that effect on or before the next date.

7. All Respondents are directed to remain present before this Court on the next adjourned and inform this Court whether they would be going for mediation or otherwise in consonance with the impugned order in the present Writ Petition.

8. Stand over to **1st October, 2024 at 2:30 p.m.**

Amberkar

[MILIND N. JADHAV, J.]

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by RAVINDRA
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Date: 2024.09.24
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