



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

WRIT PETITION NO. 8406 OF 2025

SOMENDRA UMADATTA TRIVEDI
VERSUS
UMADATTA DEVDATTA TRIVEDI AND OTHERS

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Mr. Anand P. Bhandari, Advocate for the Petitioner.

Mr. P. F. Patni, Advocate for Respondent Nos.3, 4 and 5.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 23rd JULY, 2025.**

P.C.:-

1. The present Writ Petition is filed impugning order dated 16.07.2024 passed by 5th Joint Civil Judge Senior Division, Aurangabad in Special Civil Suit No.160/2020, so also order dated 07.04.2025 passed by learned District Judge, Aurangabad in Miscellaneous Civil Appeal No.106/2024.

2. The petitioner is plaintiff in Special Civil Suit No.160/2020. The suit is filed seeking decree of partition and separate possession in respect of various properties. In that suit petitioner filed application below Exhibit-5 seeking temporary injunction. The learned Trial Court after considering rival contentions, rejected his application. Similarly, rejected another application Exhibit-79, whereby additional prayer was made to restrain defendants from raising construction over suit property.

3. Aggrieved by order of Trial Court, Miscellaneous Civil Appeal No.106/2024 was filed before learned District Judge, who partly allowed Appeal and injuncted respondents from transferring or creating third party rights in the suit property.

4. The learned District Court observed that any construction made over suit property during pendency of suit shall be subject to final decision and defendants would claim equity, however, such observations are not carried further in operative part of order. Aggrieved by aforesaid part, present Writ Petition is filed.

5. Mr. Patni, learned Advocate appearing for respondent nos.3, 4 and 5, who are in actual possession of land Survey No.86 points out that in current drive of Municipal Corporation, Aurangabad for road widening, major part of construction over residential property has been affected, hence, respondents are required to raise construction for their residence. Mr. Patni, on instructions, makes statement that, if ultimately decree is passed against respondents and they are required to hand over possession in pursuance to execution of such decree, respondents would not claim equity. The respondent nos.3, 4 and 5 are ready to filed undertaking to that effect before Trial Court within period of 15 days from today. The statement is accepted as undertaking to this Court.

6. In that view of the matter, no indulgence is required in impugned order. Writ Petition stands disposed of accordingly.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/July-2025