Jvs.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17118 OF 2024

JAYANT VISHWANATH SALUNKE

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Date: 2025.07.07 18:53:31 +0530

Babaso Shamgonda Patil & Ors. } Petitioners
versus
Bhauso Balaso Mulik, since } deceased, through Lrs. 1A }
Ravindra Khanderao Mulik & Ors. } Respondents

Mr. Yuvraj Narvankar for petitioner.

Mr. Veer Dhaval Kakade with Mr. Mrunal Jadhav for respondents 1A.1, 1A.2, 1A.3, 1A.3 and 3A.

Mr. Dhiraj M. Sharma for respondents 5A, 5B & 5D.

Mr. Manoj A. Patil for respondent no. 5.3.

CORAM: ALOK ARADHE, C. J.

DATE: JULY 7, 2025

ORAL ORDER: (Per Chief Justice)

1. In this petition under Article 227 of the Constitution of India, the petitioners have challenged the validity of the order dated 10th September 2024 passed by the District Judge-2, Ichalkaranji, by which, the application for injunction filed by the appellant has been rejected.

2. Facts giving rise to filing of the writ petition, briefly stated, are that the respondents 1 to 5 filed Regular Civil Suit No. 287 of 1991 seeking relief of permanent injunction, partition and for separate possession against respondents 4 to 10. The

petitioners claim to have purchased the property from the respondents during the pendency of the suit. The aforesaid civil suit was decreed on 9th September 2019. The petitioners were not impleaded as defendants in the aforesaid suit. The petitioners, therefore, filed an appeal. Along with the appeal, the petitioners filed an application seeking condonation of delay and an application seeking injunction, namely, Miscellaneous Application No. 42 of 2024. The aforesaid application seeking injunction has been rejected by the impugned order dated 10th September 2024, *inter alia*, on the ground that the petitioners have acquired the rights during the pendency of the suit and since the petitioners were not the parties to the suit, stay cannot be granted.

3. I have heard learned counsel for the parties at length.

4. Admittedly, the appeal was preferred by the petitioners along with an application for condonation of delay. The Appellate Court has not decided the application for condonation of delay and has decided the miscellaneous application, namely, Miscellaneous Civil Application No. 42 of 2024 seeking injunction in a cryptic and cavalier manner without considering the essential ingredients for grant of injunction. Therefore, in the facts and circumstances of the case, the impugned order dated 10th September 2024 is an erroneous order. The same is, therefore, set aside.

5. The Appellate Court is directed to decide the application for condonation of delay within a period of six weeks from today. The respondents accept notice of the aforesaid application and undertake to file a reply within a period of three weeks from their appearance before the Appellate Court on the next date of

hearing. The Appellate Court shall decide the application for condonation of delay first and thereafter to decide the application for injunction, if occasion so arises, within a period of six weeks from today.

6. The ad-interim order granted by the Appellate Court dated 14th August 2024 shall continue to operate till the application for condonation of delay is decided.

7. It is made clear that this Court has not expressed any opinion on the merits of the case.

8. With the aforesaid directions, the writ petition is disposed of.

(CHIEF JUSTICE)