



legha

19_wp_2978_2020 wi_ia_2025.docx

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2978 OF 2020
WITH
INTERIM APPLICATION NO.1128 OF 2025
IN
WRIT PETITION NO.2978 OF 2020

Smt. Kamal Vilas Gaikwad

...Petitioner/Applicant

V/s.

Ashfak Noormohammed Ansari and
Anr.

...Respondents

Ms. Anita Bhaktwani *for the Petitioner/Applicant.*

CORAM: SANDEEP V. MARNE, J.

DATED: 22 DECEMBER 2025.

P.C.:

1) Petition challenges order dated 18 July 2019 passed by the Ad-hoc District Judge-2, Thane, dismissing Misc. Civil Appeal No.239 of 2017 and confirming the order dated 20 November 2017 passed by the 7th Jt. Civil Judge, Junior Division, Bhiwandi on application at Exhibit-5 filed in Regular Civil Suit No.774 of 2016.

2) I have heard Ms. Bhaktwani, the learned counsel appearing for the Petitioner and have considered the submissions canvassed by her. She would invite my attention to Interim Application No.1128 of 2025 in support of her contention that the construction in

question was demolished during pendency of the Suit and that the Defendants are in the process of constructing another illegal structure on the land in question. She submits that the Plaintiff has accordingly submitted complaint dated 9 December 2024 to the Bhiwandi-Nizampur City Municipal Corporation. She would therefore submit that it is necessary to injunct the Defendants from undertaking any construction on the land in question.

3) The Suit has been instituted by the Plaintiff challenging Sale Deed dated 27 May 1975. The Suit appears to be instituted after a period of 41 long years in the year 2016. The Application for temporary injunction was rejected by the Trial Court by order dated 20 November 2017. During the pendency of the Misc. Civil Appeal before the District Court, there was no interim relief operational in favour of the Plaintiff. Even in the present Petition, no interim relief is granted in favour of the Petitioner. The Petitioner-Plaintiff is thus without any injunction for the last 9 long years during pendency of the Suit. Even if the contention of the Petitioner about demolition of construction by the Municipal Corporation is taken into consideration, the demolition would be on account of construction not in accordance with sanctioned development permission. Said issue has no relevance to the Petitioner's claim of title in respect of the suit property.

4) I therefore, do not find any valid reason to interfere in the impugned orders of the Trial Court and the lower Appellate Court. Writ Petition is accordingly **rejected**.

5) Needless to observe that the Suit shall be decided on its own merits without being influenced by any of the observations made in the present order. The Petitioner would be at liberty to file appropriate application before the Trial Court in the event she believes that the proposed construction on the plot is without securing development permission.

6) With the disposal of the Writ Petition, nothing survives in the Interim Application and the same stands disposed of.

[SANDEEP V. MARNE, J.]