IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

944 WRIT PETITION NO. 7996 OF 2024

LILADHAR MISHRILAL PARDESHI AND OTHERS
VERSUS
RITESH RAJENDRA CHHAJED
...
Mr. S. G. Rudrawar, Advocate for the Petitioners
Mr. C. V. Borse h/f. Mr. V. B. Patil, Advocate for Respondent
...

CORAM : AJIT B. KADETHANKAR, J.
DATED : 14th October 2026

P.C. :-

. Special Civil Suit No. 44 of 2021 is filed by the present respondent against the petitioners before the learned Civil Judge, Senior Division, Jalgaon seeking a decree of partition, declaration, perpetual injunction and possession in respect of the suit properties. During the pendency of the suit, an application below Exhibit 6 came to be filed by the plaintiff/respondent seeking a temporary injunction restraining the petitioners from creating any third-party interest in respect of the suit properties. A composite prayer was also made seeking attachment of the suit properties demonstrating apprehension that the defendants might destroy or transfer the said properties.

2. After considering the matter in its entirety, the trial Court, by order dated 03.09.2021, rejected the application below Exhibit 6. Feeling aggrieved thereby, the respondent/plaintiff approached the learned District Judge, Jalgaon by filing Miscellaneous Civil Appeal No. 41 of 2021. The learned first appellate Court heard the parties and, by a reasoned judgment and order dated 28.01.2022 partly allowed the appeal. Although the first appellate Court rejected the prayer for temporary injunction, however attached the suit properties, yet granting some concession to the respondents therein. Feeling aggrieved by the said judgment and order, the petitioners/defendants have approached this Court by filing the present petition.

3. Mr. S. G. Rudrawar, learned Advocate for the petitioners would assail the findings recorded by the first appellate Court and would submit that having found no merit in the appeal insofar as the prayer for temporary injunction was concerned, the first appellate Court ought not to have passed an order of attachment. He submits that the plaintiff could have sought attachment of the suit properties only upon satisfying the requirements of the Code of Civil Procedure, 1908 for attachment before judgment. Mr. Rudrawar

strenuously submits that the requirements prescribed under the Code of Civil Procedure for seeking attachment before judgment in respect of the suit properties were not satisfied. He therefore submits that the writ petition be allowed and the impugned order passed by the first appellate Court be quashed and set aside.

4. Per contra, Mr. C. V. Borse h/f. Mr. V. B. Patil, learned Advocate for the respondent would advocate the findings recorded by the first appellate Court. He submits that the order of attachment is not absolute and the first appellate Court has granted concession to the defendants to secure the suit properties by furnishing security in terms of the order. He, therefore, prays that the writ petition be dismissed.

5. I have heard the learned Advocates for the respective parties at length. The suit was instituted in the year 2021. The order passed by the first appellate Court which is impugned in the present petition has remained in operation since 28.01.2022. Since then, this Court has not passed any adverse order to the findings recorded by the first appellate Court. It is apparent that the suit is pending and is at an advanced stage of trial.

6. With the assistance of the learned Advocates for the respective parties, I have gone through the reasoning recorded by the first appellate Court. Upon perusal of clause (b) of the operative part of the impugned judgment and order, I find that the attachment was ordered subject to the defendants furnishing monetary security in the form of continuing bank guarantee issued by a nationalised bank or depositing the amount in the trial Court at certain rate as stipulated in the order. I further find that the first appellate Court has clarified that the attachment would stand vacated to the extent of the security furnished by the defendants in accordance with the order.

7. In view of the above, I find that the first appellate Court has also taken into consideration the interests of the present petitioner while ordering attachment of the suit properties. So far as the merits of the application seeking attachment of the suit properties are concerned, the first appellate Court has recorded elaborate reasons in paragraphs 12 to 15 of the impugned judgment and order in support of its decision to order attachment. In the facts and circumstances of the case, I find no reason to interfere with the findings recorded by the first appellate Court at this juncture.

8. Considering the age of the litigation and the fact that the impugned order has remained in operation since 28.01.2022, I deem it appropriate to dispose of the writ petition with a request to the learned Judge of the trial Court to conclude the proceedings in the suit within a time-bound period.

9. Hence, I pass the following order:

ORDER

I. The writ petition stands disposed of.

II. The learned Judge of the trial Court is requested to conclude the trial proceedings within a period of ten months from today.

III. Both the parties fairly submit that they shall cooperate and assist the learned trial Court in the early disposal of the suit proceedings.

IV. It is made clear that this Court has not expressed any opinion on the merits of the respective claims of the parties to the litigation. All contentions of the petitioners are kept open to be raised before the trial Court.

V. In view of the above, the writ petition stands disposed of.

(AJIT B. KADETHANKAR, J.)

PRW