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15 WP 6529 OF 2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

15 WRIT PETITION NO. 6529 OF 2024

MURLIDHAR PASARAM VYAS DECEASED PER LRS ANIL MURLIDHAR VYAS
VERSUS
RACHANA RADHESHYAM SHARMA

...

Ms. Rani Bora h/f. Mr. S. S. Bora, Advocate for the Petitioner

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CORAM : AJIT B. KADETHANKAR, J.

DATE : 04.03.2026

PER COURT :-

. Heard Mrs. Rani bora, learned counsel for the petitioner. None appears for the respondent.

2. Regular Civil Suit No.197 of 2016 was filed by the legal representative of deceased Murlidhar Vyas against the present respondent/defendant Rachana Sharma. The suit was filed to seek perpetual injunction restraining the defendant from causing obstruction to the peaceful possession of the plaintiff over the suit land. During the pendency of the suit, an application under Order XXXIX Rule 1 and 2 read with Section 151 of Code of Civil Procedure, 1908 was also filed by the petitioner. This application, under Exhibit-5 was obviously seeking temporary injunction against the

defendant during the pendency of the suit.

3. Upon hearing both the parties, the learned Trial Court pleased to reject the said application. As against the said rejection, the petitioner lodged Miscellaneous Civil Appeal No.52 of 2021 in the Court of learned Ad-hoc District Judge-1, Nanded.

4. Mrs. Rani Bora, learned counsel for the petitioner would submit that even the learned Appellate Court did not find plaintiff's case fit for relief under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908. As such, the learned Appellate Court concurred with the findings recorded by the learned Trial Court. The plaintiff, therefore is before this Court challenging both the orders of rejecting temporary injunction application of the plaintiff. Mrs. Bora, learned counsel would fairly submit that there was no interim relief to the said proceedings and now the trial has reached to the stage of evidence. Both the Courts have recorded their findings on facts regarding the claim of the petitioner for temporary injunction. Considering that the suit has reached to the stage of evidence, in my considered view, the parties to lead their respective evidence and present their case on merits.

5. At this juncture, I am not inclined to interfere into the finding recorded by the learned Trial Court and concurred by the Appellate Court.

6. In view of this, the writ petition stands disposed of.

7. It is clarified that this Court has not commented on the merits of the respective parties' case which they are at liberty to put forth before the learned Trial Court. All contentions of the parties are kept open. The learned Trial Court is requested to make an endeavor to conclude the suit within eight (8) months from today.

[AJIT B. KADETHANKAR, J.]