

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.162 OF 2015
with
CAA/206/2015

Mrs.Bharati Chandrakant Kadam & ors. ... Appellants

Vs.

Mrs.Radhabai Maruti Kadam & Ors. ... Respondents

Mr.N.P. Deshpande for the Appellant
Mr.U.B. Nighot for Respondent Nos.1 & 2
Ms.N.Bakali for Resp. Nos.3 & 4

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **17th NOVEMBER, 2015**

P.C.:

1. In this Appeal from Order, the order dated 25.11.2014 passed by the learned Joint Civil Judge, Senior Division, Pune, below exhibit 5 in Special Civil Suit No.384 of 2014 is challenged. The original plaintiff is the appellant, who had filed application under Order 39 Rules 1 and 2 of the Civil Procedure Code seeking that the defendants, who are her in-laws, be restrained from disposing of the property or creating any third party interest in the suit property. So also, it was prayed that the defendants, who are getting pension of her late husband be directed to deposit the pension in the bank.

2. The learned Counsel for the appellants submitted that the appellant No.1 is a widow and having children, who are the other appellants. Respondent Nos.1 and 2 are her mother-in-law and father-in-law respectively. Respondent No.3 is a bank, where the pension of her late husband is accumulated and it is paid to the respondents. It is submitted that the respondent No.1 is getting pension because her name is mentioned as nominee in her deceased husband's pension documents. However, appellant No.1 is a widow and other appellants are children of late Chandrakant Kadam. He further submits that on the plot, a bungalow was constructed by her late husband and the appellants are occupying the bungalow and she has apprehension that the respondents may create third party interest and alienate the property and, therefore, the order passed by the learned Judge is to be set aside.

3. The learned Counsel for respondent Nos.1 and 2 submits that Respondent No.2 being an ex-serviceman, was allotted the plot where the bungalow is standing. He submits that the bungalow was constructed by their late son and some portion of the bungalow is occupied by the respondents and some portion is occupied by the appellants. He further submits that the respondents do not intend to alienate or part with possession of the bungalow. He further submits that the respondents have no other source of livelihood except the pension and on the other hand, appellant No.1 is a headmistress working in the school and drawing

a good salary. He further submits that the other appellants are children and are major and have their own source of income.

4. After considering the submissions made by both the sides, I am of view that in respect of pension, no interim relief can be granted in favour of the appellants. The name of the respondent No.1 is mentioned as a nominee in the pension papers and so it may continue as they have no source of income. However, the bungalow is occupied by both the parties being first degree legal representatives of the deceased have right in the said property. Therefore, the respondents are directed that they shall not create any third party interest or part with the possession or alienate the property in any manner without the leave of the Court. The learned Counsel for the appellants makes a statement that the appellants also will not dispose of the said property without the leave of the Court.

5. In view of this, the Appeal from order is disposed of.

6. Civil Application also stands disposed of.

(MRIDULA BHATKAR, J.)