

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 345 OF 2014

Sadashiv Maruti Thombre (since deceased)

1a. Smt.Hemlata Sadashiv Thombre and others. ... Applicants.

V/s.

Arjun Waghmare and others. ... Respondents.

V.S.Kapse with Pramod Kathane i/b. Pinky Bhonsale for the appellants.

V.V.Warekar i/b. Warekar & Warekar for respondent No.1.

G.D.Utangale i/b. Utangale & Co. for respondent Nos.1 to 4.

**CORAM : R.D. DHANUKA, J.**

**DATED : 14<sup>th</sup> December 2015.**

**PC.**

By this appeal, the appellant has impugned the order dated 22<sup>nd</sup> January 2014 passed by the learned trial Judge dismissing notice of motion taken out by the appellants in the year 2009. There is no dispute that since 2009 till the date of disposal of the said notice of motion on 22<sup>nd</sup> January 2014, the appellants/original plaintiffs did not apply for ad-interim relief before learned trial Judge. This Court has also made prima facie observation and has already rejected ad-interim relief.

2. The suit filed by the appellants is of 2009. Learned counsel for the respondent submits that the suit is ready for hearing. Mr. Kapse,

learned counsel for the appellants submits that the appellants have filed chamber summons for amendment which is pending before learned trial Judge. Learned counsel for the respondents submits that reply, if not filed, will be filed within a period of two weeks and copy thereof will be served upon the appellants. The statement is accepted.

3. The learned trial Judge is directed to dispose the chamber summon within a period of six weeks from today. If both parties cooperate with each other and learned trial Judge, the matter shall be thereafter placed on board of learned trial Judge for deciding further course of action for deciding the suit. Both parties are directed cooperate with learned trial Judge for disposal of the suit. It is made clear that the learned trial Judge shall decide the suit without influenced by the observations made in the impugned order and shall decide the suit on its own merits in accordance with law.

4. Appeal from order is disposed of in the above terms. In view of disposal of appeal from order, civil application does not survive and stands disposed of accordingly. No order as to costs.

**(R.D. DHANUKA, J.)**