

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

**CIVIL APPLICATION NO. 681 OF 2015
IN
WRIT PETITION NO.811 OF 2006.**

Smt Latika (Smt.Smita) daughter of Late Bhalchandra Bhagoji Keer	.. Applicant
<i>In the matter between</i>	
Shri Satish Bhatnagar & ors.	.. Petitioners
Vs.	
Vinod Rajkumar Bhatnagar & ors.	.. Respondents

Mr.Vaibhav Sugdhare a/w Mr.Ajit Tamhane i/b M/s Tamhane & Co.
for the applicant.

Mr.Uzair Kazi a/w Preet J.Chheda i/b Divya Shah Associates, for
original petitioner.

Mr.A.A.Kumbhakoni, Senior advocate a/w Mr.Shardul Singh i/b
Mr.C.N.Chavan, for Respondent No.6 in C.A No.681/2015.

***CORAM: N.M.Jamdar J.
Tuesday 17 March, 2015***

P.C.:

By this application, the Applicant prays that the original
Petitioner and Respondent No.6 be restrained by an order of
injunction from surrendering or creating any third party interest in
the suit property.

2 Mr.Vaibhav Sugdhare, the learned counsel for the Applicant

submitted that the Petitioner and Respondent No.6 – Pradeep Bhalchandra Keer are contemplating to arrive at a consent terms contrary to what was agreed between the parties in this Court. He submitted that the Applicant apprehends that, pursuant to the proposed consent terms, the possession of the suit property will be handed over to Respondent No.6 – Pradeep Bhalchandra Keer.

3 It appears that, notice was given to the Applicant of the proposed withdrawal of the suit. On 3 March 2015, the Applicant has filed his reply in the Small Causes Court opposing the request for withdrawal of the suit and filing of consent terms. The Small Causes court is yet to pass a final order on the application for withdrawal of the suit. Therefore, it is not necessary to examine the grievance of the Applicant as the same can be looked at by the Small Causes Court.

4 Mr.Kumbhakoni, the learned senior counsel for the Respondent No.6 in Civil Application states that as regards the prayer of appointment of receiver, the receiver was appointed only till one of the party filed proceedings in the Small Causes Court. He states that the receiver already stands discharged. Mr.Sugdhare disputes this position and states that the conditions on which receiver was appointed have not yet been fulfilled. Even this aspect can be urged before the Small Causes Court and therefore, it is not necessary to be considered in this application. The Civil Application therefore, does not survive and is accordingly rejected.

All contentions of the parties are kept open to be agitated before Small Causes Court.

(N.M.Jamdar J.)