

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

**APPEAL FROM ORDER NO.393 OF 2014
WITH
CIVIL APPLICATION NO.447 OF 2014**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.Sandesh D. Patil for the appellants

Mr.J.D'Souza i/b Mr.S.M.Kamble for the
respondent nos.1 to 15

CORAM : K.K.TATED, J.
DATED : 01/07/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This Appeal from Order is preferred by the plaintiff challenging the order dated 7.2.2014 passed by Civil Judge, Senior Division, Link Court, Bhiwandi rejecting plaintiff's application below Exhibit 5 under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908 in Special C.S. No.124 of 2013 restraining respondents defendants from creating any third party right, title and interest in respect of the suit property as described in the plaint.
- 3 It is the case of the plaintiffs that they are

entitled 1/8th share in the suit property. Suit is pending for hearing and final disposal in the Trial Court.

4 The learned counsel for the respondents defendants after taking instruction from his client who is present in court makes a statement that he will not construct and or create any third party right, title and interest in respect of 474.19 sq.metre area from land demarcated on the plan B, C, D, E, F, G, H and L in red as well as black ink. Said plan is taken on record and marked as Exhibit 'X' for identification.

5 In view of the statement made by the learned counsel for the respondents defendants, advocate for the appellant on instruction from appellant no.4 who is present in court seeks liberty to withdraw the present Appeal from Order. Hence, following order:

a) The map tendered by the Advocate for respondents defendants is taken on record and marked 'X' for identification.

b) The undertaking given by the respondents defendants that they will not construct and or create any third party right, title and interest in respect of 474.19 sq.metre area from a land demarcated on the plan i.e. B, C, D, E, F, G, H & L

till the hearing and final disposal of the suit, is accepted.

c) Hearing of Special C.S. No.124 of 2013 is expedited. This court expects from the Trial Court to dispose of the same as early as possible but in any case within one year from today.

d) Appeal from Order as well as Civil Application stand dismissed as withdrawn.

e) No order as to costs.

(K.K.TATED, J.)