

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**APPEAL FROM ORDER NO. 507 OF 2014
WITH
CIVIL APPLICATION NO. 592 OF 2014**

Deepak Vishwanath Pingle & Anr. V/s. Dwarkadas Pragji Vrindavan Charitable Trust Through its Managing Trustee & Ors.	... Appellant ... Respondents
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Mr. C. G. Gavnekar with R. M. Haridas i/b Suhas Deokar for the appellant.
Mr. Sanjiv Sawant for the respondent no.7.

**CORAM : K. K. TATED, J.
DATED : 08/07/2015.**

PC.:

. Heard learned Counsel for the parties.

2 This appeal is preferred by plaintiffs challenging the order dated 25.04.2014 passed by 4th Joint, Civil Judge, Senior Division, Nashik below Exh.5 in Special Civil Suit No. 433 of 2012 rejecting appellant's/plaintiff's application under Order 39 Rule 1 & 2 of Code of Civil Procedure, 1908 restraining the respondent no.7/defendant no.7 from creating any third party right, title and interest in respect of the suit property i.e. land admeasuring 1 H 30 R from Gut No. 30/1+2+3/3 situated at Moharam Belate Gavhan, Taluka-Dist Nashik.

3 The learned counsel for the appellants/plaintiffs tendered the undertaking dated 07.07.2015 duly affirmed by the appellants stating

that they are ready and willing to deposit the amount of Rs.1,32,01,000/- in the Trial Court to show their bonafideness in two installments. The said undertaking is taken on record and marked 'X' for its identification.

4 Undertaking given by the appellants is accepted.

5 By consent of the Appellant and respondent no.7/defendant no.7, the Appeal from Order is disposed of on following terms.

i) The Appellants plaintiffs to deposit Rs.1,32,01,000/- in Trial Court as per their undertaking in two installments, failing which the Appeal from Order shall stand dismissed without further reference to the court and all interim reliefs, if any, granted by this Court stand vacated and also the statement made by the respondent no.7.

ii) It is made clear that amount is not deposited on its due date, Appeal from Order shall stand dismissed without referring back to the Court.

iii) If amount is deposited within stipulated time as stated in undertaking dated 07.07.2015, the Trial Court directed to invest the said amount in Fixed deposits of any nationalised bank initially for the period of one year.

iv) The statement made by the learned counsel for the

respondent no.7 defendant no.7 upon instructions from his client, who is present in the Court that they will not create any third party right, title and interest in respect of the suit property till the hearing and final disposal of Special Civil Suit No. 433 of 2012 is accepted.

v) On disposal of the Special Civil Suit No. 433 of 2012, the appellants/plaintiffs are entitled to withdraw the entire amount of Rs.1,32,01,000/- with accrued interest without furnishing any security.

vi) Hearing of Special Civil Suit No. 433 of 2012 is expedited.

vii) This Court expects from the Trial Court to decide the Special Civil Suit No. 433 of 2012 as early as possible, but in any case, on or before 31.12.2015.

viii) Impugned order dated 25.04.2014 passed by the Joint Civil Judge, Senior Division, Nasik below Exh.5 in Special Civil Suit No. 433 of 2012 is substituted as above.

ix) All contentions of both the parties are kept open.

x) Appeal from Order as well as Civil Application stands disposed of accordingly.

(K.K.TATED, J.)