

*Sequeira*

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

***CIVIL APPLICATION NO. 241 OF 2015***

*(For delay)*

***In***

***APPEAL FROM ORDER (St.) NO. 3890 OF 2015***

Nalini Bhal Patil & anr.

... Applicants /Appellants

V/s.

Mr.Jabir Gulam Rasool Patel & ors.

... Respondents.

Mr.Mandar Limaye a/w Mr.Girish Paryani, for Applicants /  
Appellants.

Mr.P.J.Thorat a/w Ms.Pratibha Shelke, for Respondent No.1, 2A to  
2D.

***CORAM : N.M.Jamdar, J.  
Friday, 22 July 2016.***

**P.C. :-**

Heard learned counsel for the Applicants.

2. The learned counsel for the Applicants states that Respondent Nos.1, 2, 3 are the original Plaintiffs and Respondent Nos.4 and 5 co-Defendants with the Applicants. He submitted that the presence of Respondent Nos.4 and 5 for disposal of the Civil Application as well as the Appeal, is not necessary. The learned counsel for Respondent Nos.1, 2 and 3 reiterates this position. The Civil Application is taken for consideration. The delay in filing the Appeal is of 181 days.

For the reasons stated in the Application which are found sufficient, Civil Application is allowed in terms of prayer clause (a).

3. By consent the Appeal is taken up for consideration forthwith. The Appellants challenge the observations made by the learned Civil Judge Senior Division, Pune while disposing of the Application taken out by the Respondent Nos.1, 2, 3- Plaintiffs for temporary injunction pending the suit. The Application for temporary injunction was rejected by the impugned order by the learned Civil Judge.

4. The Appellants are aggrieved by the observations made in the impugned order as regards the possession of Respondents-Plaintiffs. The learned counsel for the Respondents submitted that an Appeal from a mere finding is not maintainable. Even otherwise, the observations made in the impugned order are prima facie, since what is decided is only an interim application and that too against the Respondents-Plaintiffs. It is clarified that the observations made in the impugned order are purely prima facie and the Suit will be decided on its own merits. In view of this position, it is not necessary to pass any order in this Appeal from Order. Appeal from Order is accordingly disposed of.

*(N.M.Jamdar, J.)*