

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 950 OF 2012
IN
SECOND APPEAL NO. 475 OF 2012

Dhondiba Rakhmaji Hipparkar
deceased through LR

..... Applicant

VERSUS

Namdeo Kusaji Hipparkar,
deceased through legal heirs & Anr.

..... Respondents

Mr.M.M.Sathaye for the Applicant.

Mr.V.Y.Sangvikar, i/b. Mr.Umesh Mankapure for the Respondents.

CORAM : R.D. DHANUKA, J.

DATE : 30th NOVEMBER, 2016

P.C.

By this civil application, the applicant seeks injunction against the respondents and seeks status quo in respect of the suit property.

By a separate order passed by this court on 13th January, 2015, second appeal has been admitted on the substantial questions of law formulated by this court.

3. No affidavit-in-reply is filed in this second appeal.
4. The trial court had passed judgment and decree on 17th March, 2003 in favour of the appellant (original plaintiff) thereby granting perpetual injunction against the respondents from causing the obstruction in the peaceful possession of the plaintiff over the suit property. The first appellate court however by a judgment and decree dated 2nd January, 2012 has allowed the appeal and has set aside the judgment and decree passed by the learned trial judge.

5. Mr.Sathaye, learned counsel for the applicant states that his client is in possession since inception. Statement is accepted.

6. After hearing the learned counsel appearing for the parties and after perusing the civil application, in my view the applicant has made out a case for interim injunction restraining the defendants from causing obstructions in the peaceful possession of the applicants of the suit property.

7. I, therefore, pass the following order :-

The respondents are restrained from causing the obstruction in the peaceful possession of the applicant over the suit property bearing Gat No.975, Old R.S.No.167/2 admeasuring 2 H. 88 R situated at Village Shiganhalli, Taluka Jath, District Sangli during the pendency of the second appeal. It is made clear that during the pendency of the second appeal, the applicants shall not create any third party rights and shall not handover possession of the suit property to any third party.

8. Civil application is disposed of in the aforesaid terms. No order as to costs.

(R.D.DHANUKA, J.)