

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****CIVIL APPLICATION NO.1235 OF 2005****IN****SECOND APPEAL NO. 724 OF 2005****Tatyaba Rambhau Dolas,****Since deceased through his legal heirs & Ors.****..... Applicants****VERSUS****Narayan Sadashiv Dolas,****Deceased through his legal heirs & Ors.****..... Respondents**

Mr.T.D.Deshmukh for the Applicants.

Mr.P.J.Thorat for the Respondent nos. 1A, 1B, 1D and 2.

CORAM : R.D. DHANUKA, J.**DATE : 8th DECEMBER, 2016****P.C.**

By this civil application, the applicants has impugned judgment and decree dated 6th April, 2005 and dated 28th February, 2002 passed by the first appellate court and the learned trial judge respectively.

2. By a separate order passed by this court on 25th July, 2005, the second appeal is already admitted on the substantial questions of law formulated by this court. By an order dated 25th July, 2005 this court has granted ad-interim relief in terms of prayer clause (a) of the civil application. The said order is in force since 2005.

3. Mr.Thorat, learned counsel for the respondents states that during the pendency of this appeal, the applicants have already sold the property bearing Survey No. 624 corresponding to new survey no.210/2.

4. It is the case of the applicants that the property bearing no.624/1 was allotted in favour of the applicants whereas property bearing survey no.624/2 allotted to the respondents and was sold in favour of the applicants by a registered sale deed by the respondents and thus the applicants were entitled to the entire property.

5. Mr.Thorat, learned counsel for the respondents states that the name of his client be permitted to be recorded in the records of rights and no prejudice would be caused to the applicants. Pursuant to the ad-interim order granted by this court, the entire decree passed by these two courts below are stayed.

6. In view of this fact, I am not inclined to accept the request made by the learned counsel for the respondents to permit the respondents to get their names recorded in the 7/12th extract in respect of the suit property. Civil application is made absolute in terms of the ad-interim order passed by this court on 25th July, 2005.

7. No order as to costs.

8. Hearing of the Second Appeal No.724 of 2005 is expedited. During the pendency of the second appeal, the applicants shall not create any further third party rights in respect of the suit property. The respondents shall not create any further third party rights in respect of the suit property.

9. The applicants are directed to disclose the details of the third party rights already created in respect of the part of the suit property by filing an affidavit and shall enclose a copy of the sale deed thereof within two weeks from today and shall serve a copy thereof upon the respondents' advocate simultaneously.

(R.D.DHANUKA, J.)