

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

SECOND APPEAL NO. 562 OF 2012

Smt. Ayesha Begum Shaikh Kasam

... Appellant
(Orig. Plff)

Vs

Smt. Sugrabi Abdul Latif Shaikh
(Deceased Thr. LR's.)

... Respondents
(Orig. Defts)

...

Mr. S. M. Gorwadkar, Senior advocate a/w Kuldeep Pawar for
the appellant.

Mr. S. G. Deshmukh a/w G. T. Kanchanpurkar for respondent
Nos. 1, 3, 4, 6 to 10

CORAM : N. M. Jamdar, J.
DATE : 25 APRIL, 2016

P.C. :

1 The learned Senior advocate for the Appellants advanced
a sole contention that the Appellate Court, in spite of the plaint being
amended, has not granted an order of injunction not to dispossess
Appellant without following due process of law.

2 The learned counsel for the Respondents submitted that
there are 3 rooms in the building in question. They being 612/1,
612/2 and 612/3. He submitted that as regard 612/2 there is a suit
filed by the Respondents and in respect of 612/3, execution
proceeding are pending. He submitted that in respect of these 2
rooms, the due process has already been invoked by the Respondents
and the Respondent will have to follow the said process. As regard

the Room No. 612/1, the learned counsel for the Respondent submitted that if the Appellant is making a statement that the Appellant will not create any third party rights and not change the nature of the property and not part with possession, then the respondent will not dispose the appellant without following due process. The learned Senior advocate for the Appellants submit that the Appellants will not accordingly create third party rights, part with possession or change the nature of the property. The statement made by both the counsel are accepted.

3 The Appellants will file undertakings on affidavit in this court disclosing the adult members residing in the suit premises and containing the statements made on behalf of them by the learned counsel for the Appellant as above, within a period of 8 weeks from today failing which the protection granted by this order will stand withdrawn.

4 In the circumstance, nothing further survives for adjudication in this second appeal. The second appeal is disposed of by recording and accepting the statements as above.

(N. M. Jamdar, J.)