

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

***CIVIL APPLICATION NO. 296 OF 2012
IN
SECOND APPEAL NO. 159 OF 2012***

Smt.Gunabai Ramaji Korde & anr.

... Applicants

v/s

Satyabhamabai Ramji Korde & ors.

... Respondents

Mr.N.R. Gandhi for the applicants/appellants.

Mr.P.B. Shah for Resp. Nos.1 to 7.

Coram: N.M. Jamdar, J.

Dated: 29 April 2016

P.C.:

The application is taken out for stay of the impugned judgment and order and for an injunction restraining Respondent Nos.1 to 8 and 12 to 27 through themselves or others authorized by them, from creating third party rights in respect of the suit property. By order dated 16 October 2015, ad-interim relief was granted in favour of the Applicants and against the Respondents not to create third party rights. Thereafter the application is placed on board for hearing as to an interim relief. Respondents have filed their replies. It is contended that there was no prayer for injunction neither any injunction was operating in the suit and the appeal. Learned counsel for the Applicants states that, if the ad-interim relief is not continued, the Respondents will create third party

rights in the suit property. Considering the fact that the suit was instituted in the year 1997 and since then there was no order of injunction, except the ad-interim order granted by this court on 16 October 2015, the following order will meet the ends of justice.

2 As far as prayer clause (a) is concerned, both suit and appeal are dismissed and therefore there is no question of stay of the order passed by the District Judge. As regard the prayer clause (b) is concerned, it is clarified that any transaction made by Respondent Nos.1 to 7, through themselves or any person authorized by them or any of their action of dealing or disposing of the suit property, will be subject to the outcome of this appeal and if the outcome of the appeal is in favour of the Appellants, no equities will be claimed by Respondent Nos.1 to 8 and 12 to 27. These Respondents, if they wish to create any third party rights in the suit property, they will inform the purchaser/s of the pendency of the appeal, and the orders passed.

2 The civil application is accordingly disposed of.

(N. M. JAMDAR, J.)