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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.240 OF 2015

Dattatray S. Garwad

...Appellant

...Ori. Plff.

V/s.

Mrs.Bharati S. Garwad & Anr.

...Respondents

Mr.Amey Deshpande i/b Mr.J.D. Khairnar for the Appellant / Original Plaintiff.

Mr.Milind Deshmukh for the Respondent No.1.

CORAM : R.D. DHANUKA, J.

DATE : 14TH DECEMBER, 2016.

P.C. :-

1. Learned counsel for the original plaintiff has impugned in this appeal the order dated 7th October, 2014 passed by the learned 5th Additional Judge, Small Causes Court & Civil Judge, Senior Division, Pune, rejecting the application (Exhibit – 5) filed by the appellant in a suit for partition.

2. A perusal of the order passed by the learned trial Judge indicates that both the parties have sold certain properties which are alleged to be the properties of the joint family, in which the appellant is claiming the share. The learned trial Judge has considered this

aspect in the impugned order and made the observations that the plaintiff had suppressed material facts from the trial Court.

3. Apart from sale of the property in favour of the respondent no.2, the respondent no.1 has sold the properties to several other parties.

4. Learned counsel for the appellant states that during the pendency of the suit, his client will not alienate any other property, which is the subject matter of the suit. Statement is accepted. It is made clear that if any property is sold by the respondent no.1, which are the subject matter of the suit or if he creates any third party rights in respect of the suit property in future, the purchasers shall be informed about the pendency of the suit for partition filed by the appellant herein and it should be made clear that the sale shall be subject to the out come of the pending suit.

5. I am not inclined to interfere with the impugned order passed by the learned trial Judge. The appeal from order is disposed of with the aforesaid directions issued in the order. No order as to costs.

(R.D. DHANUKA, J.)