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

*SECOND APPEAL NO. 73 OF 2012
with
CIVIL APPLICATION NO. 98 OF 2012*

Mr. Madhukar Babu Patil and Ors. ... Appellants/Applicants.

V/s.

Bhaskar Bango Patil. ... Respondent.

Mr. Sanjay Patil for the Appellants/Applicants.
Mr. Manoj Kadam for Respondent.

CORAM : N.M. Jamdar, J.

18 April, 2016.

P.C. :-

The Appellants challenge the judgment and decree passed by the District Court, Thane in Appeal No. 45 of 2008 allowing the Appeal and restraining the Appellants by order of permanent injunction from disturbing the possession of the Respondent.

2. The Respondent filed a Civil Suit No.49 of 2004 in the Court of Civil Judge, Junior Division, Wada. The learned Civil Judge framed issues as regard ownership and the interference by the Appellants in the possession of the Respondent – Plaintiff. The learned Civil Judge

held that the Respondent – Plaintiff established his title to the suit property. The learned Judge however held that the settlement between the parties which was entered into by them on 24 June 2002 was not disclosed by the Respondent – Plaintiff and therefore, he was not entitled to relief of injunction.

3. The Appeal was filed by the Respondent to the District Court, Thane. The District Court confirmed the findings as regard the ownership of the Respondent – Plaintiff and did not take into consideration the settlement deed and proceeded to grant permanent injunction by judgment and decree dated 7 September 2011. Thereafter, the present Appeal is filed in the year 2012 and is pending for admission. There is no ad-interim order in favour of the Appellant till date.

4. As regard the ownership of the Respondent – Plaintiff is concerned, the learned Counsel for the Appellants has not disputed the same. There is also concurrent findings of both the Courts on that issue. The learned Counsel however heavily relied on the settlement of 24 June 2002 stating that it is a family arrangement and by virtue of that arrangement the Appellant is in possession. However, the learned Civil Judge has rejected the relief of injunction primarily on the ground that the Respondent – Plaintiff has not disclosed the said settlement deed. Since the said settlement deed is on record, the circumstances the deed was executed, need to be noticed. It appears from the deed that the parties wanted to settle their dispute through Kunabi Sena and the Secretary and President of the District Union of this organization. The

directions by the office bearer of this organization have termed this as an order. Once the parties are in the civil court, their rights will have to be decided as per law. The decision of a Court based on evidence cannot be over-ridden by orders passed by the organization which has no legal efficacy. Once the Respondent – Plaintiff is held to be an owner, he is entitled to protect his possession. The order passed by the District Court, Thane granting permanent injunction in favour of the Respondent – Plaintiff therefore cannot be stated to be illegal. No question of law arises. Second Appeal is dismissed. Civil Application is also disposed of accordingly.

(N.M. Jamdar, J.)