

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

**APPEAL FROM ORDER NO.744 OF 2016
WITH
CIVIL APPLICATION NO.934 OF 2016
IN
APPEAL FROM ORDER NO.744 OF 2016**

Jayantibai Gajanan Raut & Ors. ... Appellants/Applicants
vs.

Kesarinath Jagannath Patil
(deceased) through L.Rs. & Ors. ... Respondents

Mr. R.R. Joshi and Mr. Sanjay Gawde for the Appellants/Applicants.
Mr. Shilpan Gaonkar a/w Ms. Swati Sawant a/w Ms. Anjali Mishra i/b
M/s. S.K. Legal Associates for the Respondent No.10.

Coram : **A.A.Sayed, J.**
Date : 06 February 2017

P.C. :

1 By this Appeal from Order, the Appellants/original Plaintiffs have impugned the order dated 1 January 2016 passed by the 3rd Joint Civil Judge, Senior Division, Thane, whereby their Application for Injunction (Exhibit 5) was rejected.

2 The Plaintiffs are claiming a share in the suit property which originally belonged to their deceased father and which was sold by their mother (also since deceased) as long back as in the year 1969. The learned trial Judge has observed that upto filing of the suit several transactions have been entered into in respect of the suit property. Admittedly the Plaintiffs have come to the Court after a period of about

45 years seeking interim reliefs. The case of the Plaintiffs is that at the relevant time they were minors and they came to know about their rights in the year 2012 and therefore, there was no delay in filing the Suit.

3 Considering the facts and circumstances of the case, prima facie, it is difficult to accept the case of the Appellants that they were unaware of their rights in the suit property for about four and a half decades. The Appellants/original Plaintiffs have clearly slept over their rights. In the circumstances, no case is made out to interfere with the impugned order. The Appeal from Order is dismissed. No order as to costs.

4 It is clarified that while deciding the suit the Trial Court shall not be influenced by the impugned order and this order.

5 In view of the dismissal of the Appeal from Order, the Civil Application No.934 of 2016 shall not survive and to stand disposed of.

(A.A.Sayed, J.)