

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 342 OF 2014
IN
SECOND APPEAL NO. 133 OF 2014

1. Sopan Bhagwat Jadhavar and anr.Applicants
V/s.
1. Bhiva Changdev Jadhavar and Ors.Respondents

ALONGWITH

CIVIL APPLICATION NO. 296 OF 2016
IN
SECOND APPEAL NO. 133 OF 2014

- Arjun Changdev Jadhavar and Ors.Applicants
V/s.
1. Sopan Bhagwat Jadhavar and anr.Respondents

Mr. P.B. Shah i/by. Shah K.P. Advocate for the Applicants in CAS-342-2014.

Mr. A.B. Tajane, Advocate for Respondents no.1 to 8 and for Applicant in CAS-296-2016.

Coram :- N.M. Jamdar, J.

Date :- 5 May, 2017.

P.C. :-

. Civil Application No. 342 of 2014 is filed by the Applicant in the Second Appeal seeking stay of the execution and implementation of the impugned order passed by the District Court, Solapur.

2. Civil Application No. 296 of 2016 is filed by the Respondents in the Second Appeal seeking appointment of Court Receiver and in the alternative directing the Applicants to submit Accounts of Income therefrom.

3. Heard Learned Counsel for the parties in both the Civil Applications.

4. As far as Civil Application No. 342 of 2014 is concerned, an ad-interim order was passed on 18 June, 2014 that the partition proceedings to go on, however, possession of the parties will not be disturbed. The Second Appeal is admitted on 18 June, 2014 on a question of law regarding existence of sufficient nucleus. The ad-interim order, which is generally passed in the partition proceedings is under operation for almost three years. In these circumstances, the same will have to be continued till the disposal of the Second Appeal.

5. As far as Civil Application No. 296 of 2016 is concerned, the Original Respondent has sought appointment of Receiver. On that date, the Second Appeal stands admitted and that Respondents in the Civil Application/Original Appellants are in possession of the suit property. The appointment of the Receiver is not to be lightly granted and perusal of the Civil Application does not disclose any such cogent reasons. Therefore, the Receiver need not be appointed in the suit property, more particularly the alternative prayer sought for by the Applicant will adequately safeguard interest of the Applicant/Original Respondent. The request made by the Applicant that the Respondents i.e. the Original Appellants should submit the Accounts of Income every year in the Court is fair and needs to be granted.

6. Accordingly, both the Civil Applications are disposed off as under :

7. Civil Application No. 342 of 2014 is allowed in terms of prayer clause (b).

8. Civil Application No. 296 of 2016 is disposed off as under :-

(i) During the pendency of the Second Appeal, the Original Appellants will submit Accounts of Income in respect of the suit

property in the trial Court annually. The Trial Court will keep the same in the safe custody, permitting the Applicants/Original Respondents to take inspection therefrom.

(N.M. Jamdar, J)