

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER (ST) NO. 11636 OF 2017
WITH
CIVIL APPLICATION (ST) NO. 11637 OF 2017**

Uday Ananth Nayak	...Appellant
<i>Versus</i>	
Umesh Ananth Nayak & Ors	...Respondents

Mr Rupesh R Lanjekar, for the Appellant.

**CORAM: G.S. PATEL, J
DATED: 14th June 2017**

PC:-

1. The Appeal is without substance. All that the learned Judge has done on 13th April 2017 is to direct the Defendant No.1, the brother of the Plaintiff, not to create third party rights in respect of the suit property. This is an industrial gala which stood in the name of their father. This is the correct ad-interim order in the circumstances, preserving as it does the parties in status quo.

2. The plea is that a preliminary objection under Section 9A of was not considered. The submission is without merit. A preliminary objection is to be decided before the disposal of the Motion but the section itself make it clear that the raising of a preliminary objection

does not prevent the Court in a fit case from granting ad-interim relief if otherwise justified. I have no doubt that before the Trial Court disposes of the Motion, it will at some suitable convenient date and subject to all other commitments, pressures on the docket and keeping in mind particularly the current programme for reducing pendency of old cases, all of which must receive priority, put aside some time to decide the preliminary issue.

3. The Appeal is disposed of in these terms. The Civil Application is disposed of as infructuous.

(G. S. PATEL, J.)