

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 38 OF 2016
AND
CIVIL APPLICATION NO. 51 OF 2016

Manjula A. Keni and ors. .. Appellants
vs.
Dharmendra B. Patil and anr. .. Respondent

Mr. Milan Desai i/b Mr. T. R. Patel for the Appellant.
Mr. M. J. Jamdar for the Respondent No.1

CORAM : M. S. SONAK, J.
DATE : 12 JANUARY 2017.

P.C. :-

- 1] Heard learned counsel for the parties.
- 2] The challenge in this appeal is to the order dated 27 July 2015, by which, learned Trial Judge has declined the ad-interim relief to the appellants.
- 3] Learned counsel for the appellants submits that the ad-interim relief was possibly declined on account of non-impleadment of Union of India as a party to the proceedings. Learned counsel for the appellants points out that the appellants have taken out a chamber summons seeking impleadment and the same is pending adjudication. Besides, it is noted that in the impugned order, learned Trial Judge has reserved liberty to the appellants to press for the relief of appointment of Court Commissioner, once the pleadings are completed in the notice of motion.

3] In view of the aforesaid and even otherwise, at this point of time, there is no question of interfering with the impugned order. Instead, it will be appropriate if learned Trial Judge is directed to dispose of the pending chamber summons as well as the main notice of motion itself on its own merits and in accordance with law, without being influenced either by the impugned order dated 27 July 2015 or the circumstances that the same is not being interfered with by this court. The directions to this effect are issued accordingly.

4] The appeal from order is disposed of in the aforesaid terms. The civil application in this appeal from order does not survive and the same is also disposed of.

(M. S. SONAK, J.)

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