

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

APPEAL FROM ORDER NO. 298 OF 2016

Smt. Jyoti Kishor Bhandari & Ors. ... Appellants
Vs.
Shri. Rajkumar Omprakash Sharma & Ors. ... Respondents

....

Mr. Sandeep Mishra for the Appellants.
Mr. R.D. Suryawanshi for the Respondent No. 1.
Mr. Mayuresh S. Lagu for the Respondent No. 26.

....
CORAM : A.A. SAYED, J.
DATE : 23 JANUARY 2017

P.C.:

1 The impugned order is passed by the Trial Court granting the relief of injunction in respect of 18 properties. Learned Counsel for the Appellants states that out of the 18 properties described in the Plaint, two properties are not owned by the Appellants and those properties are already sold. So far as the other 16 properties are concerned, learned Counsel for the Appellants has not pressed for any relief.

2 On behalf of the Respondents it is pointed out that the aforesaid contention is not even taken in the written statement. To get over this, it is submitted that this fact came to be known to the Appellants only after the decision of the impugned order.

3 From the record as it stands, the impugned order cannot be faulted because no such contention was taken in the written statement or even urged by the Appellants before the Trial Court or even stated in the grounds of the present Appeal from Order.

4 In the circumstances the impugned order cannot be faulted and does not require any interference. The Appeal from Order is dismissed. No order as to costs.

5 It would be open for the Appellants to take out appropriate Application before the Trial Court, if so advised and it is so permissible in law.

(A.A. SAYED, J.)