

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO. 299 OF 2017**

**IN
NOTICE OF MOTION NO.4869 OF 2007**

Meenakshi Shekhar Kakera	..Appellant
Vs.	
Santosh Krishna Puthran & Ors	..Respondents

**WITH
NOTICE OF MOTION NO.1896 OF 2017
IN
APPEAL NO.299 OF 2017**

Meenakshi Shekhar Kakera	..Applicant
Vs.	
Santosh Krishna Puthran & Ors	..Respondents

Mr. Gaurav Joshi Senior Advocate a/w Mr. Kazan Shroff a/w Mr. Avinash Joshi i/b M/s Mulla & Mulla & CBC for the Appellant /Applicant
Mrs. Veena Thadhani for the Respondent No.1
Ms Tanmayi Rajyadhyaksha a/w Ms Priyanka A Raut for the Respondent No.3

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL, JJ
DATE : 28th NOVEMBER, 2017**

P.C.

1 The above Appeal takes exception to the order dated 19-12-2016 passed by the Learned Single Judge of this Court G. S. Patel, J., by which order in so far as the property which is a Bar-cum-Hotel known as Hotel Sannidhi Bar-cum-Restaurant (for short Sannidhi Hotel), certain directions have been issued in so far as the conduct of the said hotel is concerned. This has been

done after the dispute in respect of the other properties at the interim stage did not remain in view of the statement made by the Defendant No.1 who is the son of the deceased Shri. Krishna Puthran, to whom the estate amongst which is the said Hotel belongs. The statement of the Learned Counsel appearing for the Defendant No.1 has been recorded in the impugned order which is to the effect that the Defendant No.1 would not surrender the licences connected with the Hotel Sannidhi-cum-Bar without the leave of the court which is to be obtained at least three weeks prior by giving notice to the Advocate for the Plaintiff and the other Defendants. The Defendant No.1 has also been directed to maintain accounts of the said business being conducted. The Learned Judge was therefore of the view that further protection is not required to be granted at the said stage. It was the contention of the Learned Counsel for the Appellants that having regard to the fact that the said Sannidhi Hotel is a part of the estate of the deceased to which the Defendant No.1 cannot lay a claim without probate being issued in his favour, the Court Receiver be appointed and the Defendant No.1 be appointed as an agent of the Court Receiver on payment of royalty.

2 In our view, it is not possible to accept the said contention of the Learned Senior Counsel in the facts and circumstances of the case wherein the Defendant No.1 is admittedly in possession of the Sannidhi Hotel and is running the same and has been renewing the licences from time to time. In

our view, the interest of the Appellants / Plaintiffs and the other heirs of the said deceased are adequately protected by the directions issued vide the impugned order. Hence no interference is called for with the impugned order. The above Appeal is accordingly dismissed.

3 Needless to state that the ad-interim order which was granted vide order dated 17-1-2008 in the matter of restraining the Defendant No.1 from creating third party rights pending the Suit would continue to operate.

4 In view of the dismissal of the above Appeal, the Notice of Motion No.1896 of 2017 does not survive and to accordingly stand disposed of as such.

[SARANG V KOTWAL, J]

[R.M.SAVANT, J]