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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR**

**APPEAL FROM ORDER NO. 48 OF 2016
WITH
CIVIL APPLICATION (A) NO. 54 OF 2016**

Smt. Sitabai w/o Krushnarao Kaner,
aged about 76 years, Occ: Household,
R/o. Jungad (wadgaon Jangli)
Post Kelzar, Tah. Selu Dist. Wardha
& ors ..APPELLANTS

VERSUS

Shri. Sheshrao s/o Krushnarao Kaner,
Aged about 56 years, Occ: Business,
Plot NO.3, West Smarath Nagar,
Ajni Square, Wardha Road, Nagpur
& anr ..RESPONDENTS

Mr G.G. Modak, Advocate for appellant;
Mr S.V. Narale, Advocate for respondent No.1;
Mr G.P. Naphade, Advocate for respondent No.2

CORAM : N.W. SAMBRE, J.

DATE : 4th APRIL, 2017

ORAL ORDER :

This Appeal from Order is by original
defendants in Special Civil Suit No. 382 of 2015.

2. On 11th December, 2015 learned Civil
Judge, Senior Division, Nagpur passed order of
injunction, which reads thus :

(2)

1. Application (Exh.5) is allowed.

2. The defendants, their agents, servants or anybody on their behalf are hereby temporarily restrained from creating any third party interest, in the suit property by any mode, whatsoever till the disposal of the suit.

3. The defendants, their agents, servants or anybody on their behalf are hereby temporarily restrained from obstructing the peaceful possession of the plaintiff over the suit property till the decision of the suit.

4. Costs to follow costs in cause.

3. Heard respective Counsel. So far as the injunction to the extent of restraining the defendants from creating third party interest over the suit property is concerned, present appellant – original defendant No.1 does not raise any objection to that effect and as such, injunction to that effect stands confirmed.

(3)

4. So far as the suit property is concerned, it is not in dispute that the shop block of which original plaintiff, respondent No.1 claimed to be in possession of. The possession over the suit shop, according to Mr. Narale, learned Counsel for respondent No. 1 needs to be protected, whereas the findings recorded by learned Civil Judge, Senior Division, Nagpur as regards injunction against defendant is concerned, same can be in the respectful submission of respective parties, be modified as under :

The possession of original plaintiff-respondent herein over the suit shop block stands protected, whereas the order to the extent of remaining property restraining the defendants from obstructing peaceful possession of the plaintiff over the suit property is hereby quashed and set aside.

5. The above order is passed as the parties are in consensus thereto.

(4)

6. With above observations, Appeal from Order stands disposed of.

7. In the light of final disposal of Appeal No. 48 of 2016, Civil Application (A) No. 54 of 2016 stands disposed of accordingly.

(N.W. SAMBRE, J.)

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