

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 387 OF 2014
IN
SECOND APPEAL NO. 158 OF 2014

Leela Ramkrushna Kuber ...Applicant
Versus
Manohar Gangadhar Adkar ...Respondent

Mr. Ashok B. Tajane, for the Applicant.
Mr. R. S. Apte, Senior Advocate, i/b Mr. S. C. Wakankar, for the
Respondent.

CORAM: N. M. JAMDAR, J
DATED: 24 JANUARY, 2018

PC:-

1. By order passed today, the Second Appeal is admitted. By the impugned judgment and order the Respondent – original Plaintiff has been held to be entitled to ½ share in the suit property. The question of law on which the Appeal is admitted indicates that the document on which reliance is placed by the Respondent – Plaintiff, is an unregistered document and a question is also framed as to whether the document dated 11 January, 1990 is hit by the provisions of Benami Transaction (Prohibition) Act. Pending hearing final disposal of the Second

Appeal, the declaration that the Respondent – Plaintiff has a legal right in ½ share in the suit property, is stayed.

2. It is pointed out by the learned Counsel for the Respondent – Plaintiff that the Respondent – Plaintiff is in possession of the ground floor of the suit property and that the suit filed for eviction by the Appellant has been dismissed. During the pendency of the Second Appeal, the Respondent will not create any third party rights or part with possession of the suit property. Restraint placed on the Appellant by order dated 24 March, 2014 also to continue.

3. Considering the nature of dispute between the parties, this is a fit case that it needs to amicably resolved. The request for granting leave to apply for creating third party rights, may be considered if the Court is convinced that genuine efforts have been made by the parties to settle the dispute.

4. Civil Application is disposed of.

[N. M. JAMDAR, J.]