

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER ST. NO. 1585 OF 2018  
WITH  
CIVIL APPLICATION ST. NO. 1587 OF 2018  
IN  
APPEAL FROM ORDER ST. NO. 1585 OF 2018**

Rixon Maben and Anr.

...Appellants

Versus

Joyce Maben & Ors.

...Respondents

.....

Mr.Javed Akhtar Khan for the Appellants.

Mr. Asif Kedar Singh for Respondent no. 3.

.....

CORAM: **MRS.MRIDULA BHATKAR, J.**  
DATE : **FEBRUARY 02, 2018**

**P.C.:**

1. The learned Counsel for the appellants submits that the appellants have purchased the property from respondent no.3 by executing a special Power of Attorney in favour of respondent no.1, who is their aunt. However, respondent no.1 has forged another Power of Attorney by which she has executed the registered sale deed of the same property in favour of respondent no.2. He further

submits that respondent no.2/ original defendant no.2 is likely to dispose of and transfer the property and, therefore, the Court Receiver is to be appointed.

2. The learned counsel for respondent no.3 submits that no relief is prayed against him.

3. The learned counsel for the appellant submits that respondent nos. 1 and 2 are served. However, none present for them. He further submits that he will file affidavit of service.

4. The appellants have challenged the order dated 20.12.2017 passed by the learned Judge of the City Civil Court in Suit No. 2658 of 2017 in Draft Notice of Motion. The trial Court has passed the order that defendant no.2 is directed to maintain status quo in respect of the suit property. It is informed that Notice of Motion is fixed for reply and hearing on 01.03.2018 before the trial Court. At this stage, the request of appointment of the Court Receiver cannot be entertained, but the trial Court to decide the prayers at the stage of hearing of Notice of Motion finally. Hence, I modify the order of status quo passed by the trial Court as follows:

## ORDER

(i) Respondent no.2/defendant no.2 shall not create any third party interest and shall not part with the possession in any manner pending Notice of Motion.

(ii) The learned Judge of the trial Court to decide Notice of Motion on or before 31.03.2018.

5. The appellants are directed to serve writ of summons in suit on respondent no.2/ defendant no.2 and show proper service to the trial Court.

6. With this, the Appeal from Order is disposed of. Civil Application is also accordingly disposed of.

**(MRIDULA BHATKAR, J.)**