

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 236 OF 2018
IN
REJECTED CASE NO. 291 OF 2018

Mrs. Padma Deepak Mehtre & Ors.

...Applicants/
Appellants

Versus

Mrs.Mansi Meghraj Inamke & Ors.

...Respondents

.....

Mr. Pandit Kasar for the Applicants/Appellants.

Mr. V.P.Sawant i/b. Mr.Prabhakar M. Jadhav for Respondent Nos. 1
to 3.

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CORAM: MRS.MRIDULA BHATKAR, J.
DATE :MARCH 01, 2018

P.C.:

1. This Civil Application is moved for restoration of Second Appeal, which was dismissed by order dated 1st February, 2018 passed by this Court.

2. The learned Counsel for the applicants submits that by order dated 1st February 2018, this Court had granted two weeks' time to

remove office objections. However, the office objections were not removed by the applicants within the stipulated time and, therefore, Second Appeal was dismissed. He further submits that immediately the present Civil Application is moved for restoration of Second Appeal i.e., on 28th February, 2018. The said Civil Application is filed within time. He further submits that the office objections were not removed due to mistake of his office and he has mentioned it accordingly in the Civil Application. He further submits that the ad-interim injunction was granted by this Court on 7th September, 2017 and, therefore, he prays that the ad-interim injunction be continued, as the respondents are likely to file the execution proceedings.

3. The learned Counsel for the respondents opposes this Civil Application. He submits that the learned Counsel for the applicants did not attend the matter on two dates consecutively and, therefore, this Court had passed conditional order on 1st February, 2018. The main contention is raised about the sale of the suit property during the pendency of the Second Appeal i.e., on 27th December, 2016. He further submits that in the month of January 2018, the respondents had knowledge of the same. On this ground also, the Civil Application for restoration of the Second Appeal needs to be dismissed.

4. Heard submissions. After going through paragraph nos. 5 and 6 of the Civil Application and as the Civil Application is filed immediately after dismissal of the Second Appeal, I allow this Civil Application. The order dated 1st February, 2018 of dismissing the Second Appeal is hereby set aside. Second Appeal is restored to its original file.

5. Civil Application is allowed and is accordingly disposed of.

6. The learned Counsel for the applicants/ appellants are hereby directed to file a short affidavit stating true facts on record whether the applicants/appellants have sold the suit property during the pendency of the Second Appeal.

7. Hence, Second Appeal stand over to 20th March, 2018. Ad-interim relief granted earlier to continue till then.

(MRIDULA BHATKAR, J.)