

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER (ST) NO. 6310 OF 2018
with
CIVIL APPLICATION (ST) NO. 6312 OF 2018
IN
APPEAL FROM ORDER (ST) NO.6310 OF 2018

Lilavati Navnath Dongre & Ors. ..Appellants

v/s.

Dashrath Haridas Hagavne & Ors. ..Respondents

Mr. Shanashyam S. Jadhav for the Appellant
Mr. Rahul Kadam for the Respondent No.1.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 23rd MARCH, 2018.

P.C.

1. Heard. With consent of the parties, the matter is taken up for final hearing at the stage of admission.
2. By the impugned order dated 30th January, 2018 passed in Regular Civil Appeal No. 115 of 2016, the learned Adhoc District Judge-2, Baramati has refused to stay execution of the judgment dated 30th June, 2016 passed by the Ld. Civil Judge, Senior Division, Baramati in Special Civil Suit No.58 of 2009.

3. The respondent no.1 who was the plaintiff had filed a suit being Special Civil Suit No.58 of 2009 for specific performance and other consequential reliefs. The said suit was decreed on 30.6.2016 with following order:

4. By judgment dated 30th June, 2016, the learned Judge decreed the suit and declared the Sale Deed dated 15.10.2007 between Respondent No.2-Rekha and Respondent No.3-Tanuja as well as the subsequent Sale Deed dated 17.09.2009 between Tanuja-Respondent No.3 and the Appellant No.3- Kisan was declared as null and void. The learned Judge directed the Respondent No.2-Rekha to execute the Sale Deed in respect of the suit property in favour of the Respondent No.1-Dashrath. The Appellants and the Respondent Nos.2 to 5 were also directed to hand over vacant possession of the suit property to the Respondent No.1-Dashrath. Being aggrieved by the judgment and decree the Appellants preferred an appeal being Regular Civil Appeal No. 115 of 2016 before the District Court, Baramati and prayed for stay of execution of decree pending hearing of the appeal. Refusal to stay the execution of the judgment and decree resulted in filing of this appeal.

5. Shri kadam, the learned Counsel for the Respondent No.1 submits that the Sale Deed has already been executed in favour of the Respondent No.1. Since the Sale Deed was executed during the pendency of the appeal, he concedes that the execution of the Sale Deed shall be subject to the final outcome of the Appeal.

6. As regards possession, Shri Jadhav, the learned Counsel for the Appellant contends that the Appellants continue to be in possession of the suit property. This statement is not disputed by Shri Kadam, the learned Counsel for the Respondent No.1. The learned Counsels for the respective parties agree to maintain status quo in respect of the suit property till the disposal of the appeal. Statement is accepted.

7. The appeal as well as the Civil Application stands disposed of in the light of the above statement.

8. The learned Adhoc District Judge -2, Baramati is directed to dispose of Regular Civil Appeal No.115 of 2016 within a period of six months from the date of receipt of this order.

(ANUJA PRABHUDESSAI, J.)