

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO.408 OF 2014
with
CIVIL APPLICATION NO.463 OF 2014**

Smt.Kunda Kesarinath Chitnis & anr. ... Appellants

Vs.

Smt.Vaishali Sanjay Chitnis ... Respondent

Mr.D.B. Zaveri for the Appellants
Mr.Jitendrakumar G. Damani for Respondent
Ms.Sadhna Kumar for the Intervener

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: FEBRUARY 12, 2018**

P.C. :

1. Mr.Zaveri, learned Counsel for the appellants, submits that he sent notices to appellant No.2 Meghha Bania, who is the daughter of late Smt.Kunda Kesarinath Chitnis, i.e., appellant No.1. He submits that there is no response from appellant No.2. He produces copies of the notices sent by Speed Post dated 18.1.2018. The first notice was sent to the address which is given on the basis of the plaint, which came back with a remark 'left'. The other address to which the notice is sent is flat No.704, Samartha Shrushti, Goregaon (West), where it is served. He produces two

original receipts of service by Speed Post, the tracking report. The notice, the receipts, the tracking report and the envelope by Speed Post are taken on record and are marked Exhibits A, B, C and D respectively. In view of this, the learned Counsel submits that he be discharged from appearing in the matter.

2. The prayer of Mr.Zaveri is accepted and he is discharged from appearing in the matter.

3. As on today, none appears for appellant No.2. The Intervener M/s.Ashapura Samarth Developer has stepped in the shoes of the present appellants and it appears that the transfer of the suit property is *lis pendens* and the trial Court may consider all the aspects if the Chamber Summons is taken out by the applicant in the suit. It is to be noted that the plaintiff i.e., respondent No.1 is the daughter in law who claims her right through her deceased husband in the suit property.

4. In view of the above, the Appeal is dismissed.

5. Civil Application also stands disposed of.

(MRIDULA BHATKAR, J.)