

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 597 OF 2017
IN
SECOND APPEAL NO. 1155 OF 2004

Vinayak Mahadeo Dongare (deceased) Thr
LRs

...Applicants

Versus

Nitin Achyut Dongare & Ors

...Respondents

Mr. Shirish V. Pitre, for the Applicants.

Ms. Teja Katdare, for the Respondents.

CORAM: N. M. JAMDAR, J

DATED: 2 FEBRUARY, 2018

PC:-

1. Civil Application is filed seeking clarification that the partition proceedings in Darkhast Application No.3 of 2012, pending in the Court of Civil Judge, Junior Division, Pali, can go on.

2. The proceedings in Darkhast Application No.3 of 2012 arises from a decree passed in a different Suit. Darkhast proceedings are not filed for execution of the decree under challenge. Therefore, any order that would affect the proceedings arising from a different Suit, cannot be given in this

Second Appeal. The learned Counsel for the Applicants submitted that the Executing Court in Darkhast Application No.3 of 2012 has stayed the proceedings. The learned Counsel for the Respondents points out that the order has been passed by the learned Executing Court on 22 April, 2016. If that be so, then it is open to the Applicant to challenge the said order on its own merits. The Civil Application is accordingly disposed of.

[N. M. JAMDAR, J.]