

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1829 OF 2014
WITH
CIVIL APPLICATION NO.22 OF 2018
IN
FIRST APPEAL NO.1111 OF 2015

Gopinath Kashinath Patil and ors.

-vs-

Tulsibai Keshav Patil and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Smt Anjali Neel Helekar, Advocate for applicant in
C.A.No.22/2018

Shri Anthony Joseph Almeida, Advocate for
respondent/applicant in C.A. No.1829/2014

CORAM : A.S.CHANDURKAR, J.

DATE : December 12, 2018

Civil Application No.1829 of 2014

1. Heard the learned counsel. As the decree for partition is under challenge before this Court, its execution is stayed. Needless to say that none of the parties shall create third party rights in the suit property.

Civil Application is allowed and disposed of.

Civil Application No.22 of 2018

2. By this application it is prayed that the respondents be restrained from creating third party rights in the suit property. In paragraph 8 of the Civil Application it has been stated that in November 2017 when the applicant No.3 visited the suit land he found certain activities going on there indicating that interest of a third party was sought to be created. Along with the application photographs in that regard have been filed on record. It is therefore prayed that

in the light of the above fact that the suit for partition has been decreed, the respondents be restrained from creating third party rights.

3. The application is opposed by the respondents by filing reply. It is submitted on behalf of the respondents that the decree as passed is not sustainable in view of the fact that the suit itself was barred by limitation. The learned counsel for the respondents has referred to the evidence on record to indicate that the suit for partition could not have been decreed.

4. On hearing the learned counsel and on perusing the impugned judgment, it can be seen that presently the suit for partition stands decreed. This decree is under challenge in the appeal. If the defendants are permitted to create third party rights in the suit property, same would definitely cause prejudice to the legal rights of the original plaintiffs. The execution of the decree for partition has already been stayed. In that view of the matter the Civil Application is allowed in terms of prayer clause (a). Civil Application is disposed of.

(A.S.CHANDURKAR, J.)