

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL (L) NO.302 OF 2018
IN
NOTICE OF MOTION (L) NO.1290 OF 2018
IN
SUIT (L) NO.737 OF 2018**

Kiran Shyamlal Bellara and others **..Appellants**
Versus
Narayan @ Ruppo Jethanand Bellara
and another **..Respondents**

Mr. Anuj Desai a/w Mr. A. P. Steenson I/by M/s. APS Law Associates, Advocate for the Appellants.
Mr. Deepak V. Rajbhar, Advocate for Respondent Nos.1 & 2.
Mr. Himanshu Takke, AGP for – State.

**CORAM : B. R. GAVAI &
RIYAZ I. CHAGLA, JJ.
DATE : 19th NOVEMBER, 2018**

P.C.

1] The Appeal challenges the order passed by the learned Single Judge dated 27th June 2018, vide which the learned Single Judge has rejected the application of the present Appellants for grant of ad-interim orders.

2] Plaintiff No.1 is the sister-in-law of Defendant Nos.1 and 2. The husband of Appellant No.1, who is the brother of Defendants has died on 31st August 2005.

3] It is the case of the Appellants that the Appellant No.1

alongwith her deceased husband was residing on the second floor of the house owned by the Bellara family.

4] Per contra, it is the claim of the Defendants that there was already partition and the Appellant No.1 has encroached upon the property in question. It is their submission that as such Appellant No.1 has no claim in the property and the Appellant Nos.2 and 3 who are daughters of the Appellant No.1 tried to create right in the property.

5] Prima-facie, we are of the considered view that since the relationship between parties is not disputed, the limited relief which was sought by the Plaintiffs ought to have been granted. Undisputedly, Plaintiff No.1 is an old lady and Plaintiff Nos.2 & 3 are her two daughters. It will be necessary for the Plaintiff Nos.2 and 3 to visit Plaintiff No.1 in order to take care of her well being. We are of the prima-facie view that the view taken by the learned Single Judge requires to be scrutinized in the present Appeal. The Appeal is therefore admitted.

[RIYAZ I. CHAGLA, J.]

[B. R. GAVAI, J.]