

(Order)

(1)

Civil Appln. No. 05032 of 2016
with Civil Appln. No. 03501 of 2019

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Civil Application No. 05032 of 2016
(In Second Appeal No. 0434 of 2005)

District : Dhule

Janya s/o. Hurji Desai,
deceased through L.Rs.,
Chagan s/o. Janya Desai
& others.

.. Applicants

versus

Hanubai w/o. Dhanjya Kuwar
& 02 others.

.. Non-applicants.

.....

Mr. Girish Rane, Advocate, holding for
Mr. Pravin S. Patil, Advocate, for the applicants.

Mr. C.R. Deshpande, Advocate, for non-applicant
no.01.

Non-applicant no.02 died.

Mr. S.K. Kulkarni, Advocate, for non-applicants
no.03.

.....

With

Civil Application No. 03501 of 2019
(In Second Appeal No. 0434 of 2005)

District : Dhule

Hanubai w/o. Dhanjya Kuwar.

.. Applicant.

versus

Janya s/o. Hurji Desai,
deceased through L.Rs.,

(Order)

(2)

Civil Appln. No. 05032 of 2016
with Civil Appln. No. 03501 of 2019

Chagan s/o. Janya Desai
& others.

.. Non-applicants.

.....

*Mr. C.R. Deshpande, Advocate, for the applicant
[i.e. Respondent no.01 in SA].*

*Mr. Girish Rane, Advocate, holding for
Mr. Pravin S. Patil, Advocate, for non-applicants
no.01 to 13 [i.e. appellants in SA].*

*Mr. S.K. Kulkarni, Advocate, for non-applicant
no.15 [i.e. Respondent no.03 in SA]*

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 12TH MARCH 2019

ORAL ORDER :

Heard both sides.

02. It appears that while dealing with the interim application for stay i.e. Civil Application No. 03192 of 2005 in this Second Appeal No. 0434 of 2005, a condition was put, that the applicants i.e. the appellants in this case, should go on depositing amount of Rs. 10,000/- per year. It was also further directed that first of such deposit shall be made before 15th April 2008 and for subsequent years, the amount shall be deposited on or before 15th April of the relevant year. Further, in case of failure to deposit two consecutive instalments, it was directed that the interim relief shall stand vacated automatically.

03. It is apparent and it has also been stated by the learned Advocate for the appellants, that the appellants have not deposited the amount till date. Under such circumstance, the conditional order has come into effect and the interim order passed by this Court stood vacated automatically. Therefore, the applicant in C.A. No. 3501 of 2019 i.e. respondent no.01 in the second appeal is at liberty to take available recourse.

04. As regards Civil Application No. 05032 of 2016 for continuation of the order passed by this Court on 03-03-2008 in Civil Application No. 03192 of 2005 is concerned, similar application was filed i.e. Civil Application No. 03828 of 2016. It was for allowing the appellants to deposit the amount and for continuation of interim relief. The said application came to be rejected on 04th April 2016. Therefore, subsequent application cannot be entertained.

05. In the light of above, Civil Application No. 05032 of 2016 is rejected. Under such circumstance, Civil Application No. 03501 of 2019 is also disposed of with the above observations.

(Smt. Vibha Kankanwadi)
JUDGE

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