

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 449 OF 2018
IN
SECOND APPEAL NO. 432 OF 2014

Shri. Guffar Hamid Butler ... Applicant

In the matter between

Gausmahammad Sayyad Bagnikar ... Appellant

Vs

Guffar Hamid Butler ... Respondent

Ms. Akansha Helaskar i/b. A.M. Kulkarni, Adv. for the Appellant.

Mr. Padmanabh D. Pise, Adv. for the Respondent No. 1

CORAM : SANDEEP K. SHINDE J.

DATE : APRIL 16, 2019

P.C. :

1. Not on board. Taken on board.
2. This appeal is preferred by the original plaintiff against the decree passed in the regular Civil Appeal No. 442 of 2007. On 21.07.2015, this Court has passed the following order;
“1. Issue notice to respondent, returnable after eight weeks.
2. In the meantime, there shall be interim relief in terms of prayer Clause (b), which is reproduced below:
(b) Pending the hearing and final disposal of the present Second Appeal, to restrain the Respondent, his heirs, legal

representatives, agents, administrators, successors or any person on his behalf from transferring, alienating, encumbering and/ or creating any kind of third party interest in the suit property and/or from changing the nature of the suit property and/or from parting with the possession of the suit property”.

3. The Respondent/ original defendant has filed this application seeking permission to construct the Toilet in the suit premises.
4. Learned Counsel for the appellant has placed on record the written instructions whereby the appellant without prejudice to his rights and contention has no objection, if the respondent constructs Toilet block in the suit premises. Photocopy of written instructions is taken on record and marked as 'X' for identification.
5. In view of this, application is allowed in terms of prayer clause 'a'.
6. It is made clear that the applicant shall not claim equity for permitting him to construct toilet block.

(SANDEEP K. SHINDE, J.)