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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.358 OF 2018
IN
SECOND APPEAL NO.394 OF 2018

Vasant R. Ratnaparkhi & Anr.	...Applicants
V/s.	
Gopal R. Ratnaparkhi & Ors.	...Respondents

Mr.P.K. Dhakepalkar, Senior Counsel with Mr.S.S. Chaudhari and Mr.Navnath Mule for the Applicants.

Mr.Y.P. Narvankar for the Respondent No.1.

CORAM : R.D. DHANUKA, J.
DATE : 30TH SEPTEMBER, 2019.

P.C. :-

1. By a separate order passed by this Court in Second Appeal No.394 of 2018, the Court has admitted the second appeal on substantial questions of law formulated by this Court.

2. A perusal of the record indicates that insofar as the properties in respect of which decrees are passed by the two Courts below were even according to the defendants were joint family properties. The dispute however, raised by the defendants before the learned Trial Court was that in respect of some of the properties which were claimed by the plaintiff as self-acquired properties and more particularly at Sangli those properties were allegedly purchased by the plaintiff not from his own funds but were purchased from the properties out of the funds of the joint family business. On the

contrary, it was the case of the plaintiff that all those properties were self-acquired and not purchased out of the funds provided by the defendant. It was the case of the plaintiff that in any event all the properties were already sold prior to the date of filing of the suit. Two of the properties were already destroyed by fire. The submission of the learned counsel for the plaintiff that all these properties were either sold prior to the date of filing of the suit or part of the properties during the pendency of the suit were destroyed is strongly objected to and disputed by Mr.Dhakephalkar, learned senior counsel for the defendants.

3. For the reasons as aforesaid, I am not inclined to grant any interim relief in respect of the properties which are alleged to have been sold.

4. I therefore, pass the following order :-

a). The partition in respect of the properties which were subject matter of the plaint is allowed to be proceeded with by meets and bounds. That part of the decree is not stayed.

b). Insofar as the properties which are subject matter of the written statement and which were claimed to have been purchased by the plaintiff out of the joint family funds provided out of the joint family (nucleus) if such properties are not sold, no third party rights shall be created by the plaintiff during the pendency of this appeal.

c). The plaintiff is directed to file an affidavit within two weeks from today and shall indicate out of those properties which properties are not sold till date along with movables with a copy to be served upon the defendants' advocates simultaneously. If any properties are sold according to the plaintiff, the document in support of such contention shall be annexed to the affidavit.

d). The civil application is disposed of on aforesaid terms. There shall be no order as to costs. Parties to act upon the authenticated copy of this order.

(R.D. DHANUKA, J.)