

Mr. Uday P. Warunjikar, for Appellants.
Mr. T.D.Deshmukh, for Respondent No.1.
Ms. Prachi Tatake h/f for Mr. Vaibhav Sugdare, for Respondent No.2.

DATE: 7th JUNE, 2019

P.C.:

- SSP

4. Having heard Counsel for the parties and having perused the documents on record, it prima facie emerges that the partition which took place in the year 1992 was challenged by filing Suit in the year 2011. In the meantime, the original Defendant Nos.1 to 5 acting on such partition had already created third party rights in relation to lands bearing Survey Nos.66 and 67 of Village Hadapsar, Dist. Pune, by granting development rights to the builder. Acting on such agreement, the builder had also initiated development of the properties, obtained necessary permissions for construction from the local authorities and going by the written statements, had constructed as many as 300-400 residential units which were occupied by the respective purchasers. Under the circumstances, in so far as lands bearing Survey Nos.66 and 67 of Village Hadapsar, Dist. Pune are concerned, we are inclined to grant protection to the present Appellants. We also notice that the family has agricultural lands which are stated to be in possession of the Appellants-Applicants. Under the circumstances, the execution and implementation of the impugned Judgment and decree are stayed subject to the following conditions :

(i) With respect to agricultural lands, the Appellants-Applicants shall maintain status prevailing as on 13th December, 2018 i.e. the date of the Judgment of the Trial Court, regarding possession and title of the properties in question.

(ii) All third party rights created during the pendency of the Suit and which may be created hereafter in relation to the lands bearing Survey Nos.66 and 67 of

Village Hadapsar, Dist. Pune, and the construction carried out thereon, shall be subject to the outcome of the present First Appeal.

(iii) The Respondent No.3 herein shall maintain full accounts of the residential units, which are constructed on the lands bearing Survey Nos.66 and 67 of Village Hadapsar, Dist. Pune, which are sold hereinafter and shall file by yearly such accounts before this Court.

5. The above Civil Application is accordingly disposed of.

(S.J.KATHAWALLA,J.)

(AKIL KURESHI,J.)