

Dond

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO. 592 OF 2017
WITH
CAA NO. 755 OF 2017**

Ms. Vanessa D'Souza

..Appellant.

Vs

Shri Hiranman Tukaram Khandve & Ors.

..Respondents

Mr. Madhav Jamdar a/w Rohan Surve for Appellant.

Mr. R.S. Apte, Senior Advocate i/b Mr. Sachin Gite for respondent Nos.1 to 3.

CORAM : A.S.GADKARI, J.

DATE : 15th November 2019.

P.C.:

1] By the present Appeal, the appellant/original defendant No.2 has impugned Order dated 4.5.2017 passed below Exh.152 in Special Civil Suit No.1450 of 2012, thereby disposing off the said application without continuing the joint statement made by the appellant and respondent Nos.1 to 3 about non-alienating of the suit property to any third party in any form.

2] The record indicates that, on 2.9.2015, 7.10.2015 and 28.4.2017, the appellant and respondent Nos.1 to 3 had filed joint Purshis before the Trial Court stating that, they will not alienate the suit property to any third party in any form till the next date.

3] Mr. Jamdar, the learned counsel for the appellant submitted that, the application filed below Exh.5 by the original plaintiff is still pending for passing of the Order. It is surprising to note that, Application below Exh.5 is still pending on the file of the Trial Court for more than six years.

4] May that as it may, as the parties herein on various occasions have submitted joint Purshis before the Trial Court admitting that they will not alienate the suit property in favour of third party in any form, their said statement would continue till the disposal of Application below Exh.5 pending before the Civil Judge, Senior Division, Pune in Special Civil Suit No.1450 of 2012.

5] Mr. Jamdar, the learned counsel for the appellant submitted that, his client has already filed an Application below Exh.81 seeking injunction and same is also pending for passing of Orders. He submitted that, Application below Exh.151 was filed by the appellant for continuation of earlier joint statement and therefore till both the Applications below Exh.5 and Exh.81 in Special Civil Suit No.1450 of 2012 are decided the parties herein may be directed to maintain status-quo.

6] In view of the facts mentioned in para No.2 above and the submissions recorded in para No.5, it will be appropriate to direct the parties herein to maintain status-quo till disposal of Exh.5 and Exh.81 in Special Suit No.1450 of 2012 and the parties are accordingly directed to maintain it.

7] Appeal from Order is disposed off in the aforesaid terms.

In view of disposal of the appeal, Civil Application does not survive and the same is also disposed off.

8] Needless to mention that, the Trial Court may not get influenced by the observations made hereinabove and shall decide aforestated applications on its own merits within a period of six months from the date of receipt of this Order.

(A.S.GADKARI, J.)