

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO.376 OF 2019
WITH
CIVIL APPLICATION NO.449 OF 2019
IN
APPEAL FROM ORDER NO.376 OF 2019**

Shri. Tukaram Ramchandra Birajdar And Ors. ...Appellants

vs.

Shri. Ali Sagar Dekhani ...Respondent

.....

Mr. Avinash B. Avhad, for the Appellants.

Mr. Sanjiv A. Sawant, a/w. Mr. Abhishek Matkar, for the Respondent.

.....

CORAM : S.C. GUPTE, J.

DATED : 16 SEPTEMBER 2019

P.C. :

. This appeal from order challenges an order passed by the Court of Civil Judge, Senior Division, Pune on an application for temporary injunction. After the matter is heard at length, it is agreed between learned Counsel for the parties that the impugned order, so far as it restrains the defendants from creating any third party interest in the suit property till disposal of the suit, shall be confirmed as an interim order in the suit. It is, however, open to the defendants to make construction in the suit property and use such construction in the manner stated in the additional affidavit filed by the defendants (Appellants herein) on 15 September 2019, that is to say, construction of two more floors for being used for the school. The construction of the upper floors as well as the use of the defendants shall not entitle them to

claim any equity or indulgence so far as the suit property is concerned. Such construction and its use shall be subject to the outcome of the special civil suit. It is also clarified that the application of the plaintiff (Respondent herein) under Order 39 Rules 11 and 7, presently pending before the trial court, shall proceed without reference to the present order. All rights and contentions of the parties on merits in that behalf are kept open.

2. In view of the disposal of the appeal from order, the civil application does not survive and is disposed of.

3. At the joint request of the parties, the trial court is requested to dispose of the suit as expeditiously as possible and preferably within a period of two years from today.

(S.C. GUPTE, J.)

Smita
Gonsalves

Digitally signed
by Smita
Gonsalves
Date: 2019.09.26
10:32:50 +0530