

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4404 OF 2019

Baburao K. Mirajkar and ors. .. Petitioners
vs.
Shubhangi B. Mirajkar
(@ Shubhangi S. Mirajkar) .. Respondent

Mr.Sandesh Patil I/b Mr. Prithviraj S. Gole for the Petitioner.

CORAM : M. S. SONAK, J.

DATE : 8 APRIL 2019.

P.C. :-

1] The challenge in this petition is to the orders dated 13th May 2016 and 1st April 2017, by which, learned Trial Judge and learned Appeal Judge have injuncted the petitioners in the following terms:

*“(i) The application (Exh.5) is hereby partly allowed.
(ii) The defendants, their agents, servants or any person on their behalf are hereby temporarily restrained from interfering with the business of Vadapav in suit property 1C and residence of plaintiff in the suit property 1D till final disposal of the suit.”*

2] Insofar as the property described as 1D is concerned, the plaintiff has residence therein. Insofar as property described as 1C is concerned, the same measures hardly 28.50 sq.ft and wherein the plaintiff carries on the business of selling *Vada Pav*.

3] Mr. Sandesh Patil, learned counsel for the petitioners, submits that there are findings that there was no oral partition effected. He further pointed out that since the father of the plaintiff is living, there is no question of the plaintiff, who is only a daughter, claiming any rights in the property. He submits that since these aspects are not taken into consideration by the two Courts, the impugned orders warrant interference.

4] According to me, the material on record indicates that the plaintiff has a residence in the property 1D and carries on her business in property 1C, which is even otherwise a very small property. Therefore, if at interim stage, the two Courts have concurrently granted some protection to the plaintiff, there is really no case made out to interfere with such interim reliefs. The issues raised by Mr. Patil can always be gone into the suit. The purpose of interim orders is mainly to preserve the *status quo* and that is what done in the present case.

5] Accordingly, the impugned orders are not interfered with, however, the interest of justice will be met, if directions will be issued to learned Trial Judge to decide the suit as expeditiously as possible.

6] For the aforesaid reasons, this petition is dismissed. However, learned Trial Court is directed to dispose of R.C.S. No 51 of 2016 as expeditiously as possible. All parties to cooperate in the matter of expeditious disposal of the suit.

7] Further, in disposing of the suit, learned Trial Judge need not be influenced by any of the observations in the impugned orders or for that matter the present order. The suit will have to be decided on its own merits and in accordance with law.

8] All concerned to act upon an authenticated copy of this order.

(M. S. SONAK, J.)