

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO. 391 OF 2017****WITH****CIVIL APPLICATION NO. 507 OF 2017****IN****APPEAL FROM ORDER NO. 391 OF 2017**

Smt. Tereza Prakash Tiwari
Widow Of Prakash Chandra Tiwari

.....Appellant.

Vs.

Mrs. Arti Amir Khan Nee
Aarti Prakash Tiwari And

.....Respondent.

Mr. Rajesh Parab for the Appellant.
Mr. Jahangir Khan for the Respondent.

CORAM : A. S. GADKARI, J.
DATE : 3rd FEBRUARY, 2020.

P.C.:-

By the present Appeal, the Appellant has impugned Order dated 27th March, 2017 passed in Notice of Motion No. 3789 of 2016 in S.C. Suit No. 3218 of 2016.

2 Heard the learned counsel appearing for the respective parties.

3 By the impugned Order, the Respondent-Defendant has been temporarily restrained from creating third party interest in respect of the suit property described in para No.2 of the plaint, till further orders.

The prayer of Appellant-Plaintiff for appointment of Court Receiver and for directing the Respondent to pay compensation during the pendency of the Suit is not entertained by the Trial Court.

4 *Prima facie* it appears that, it is an admitted fact on record that, the Respondent is the adopted daughter of late Prakash Tiwari and his first wife Mrs. Sulochana Prakash Tiwari. The School Leaving Certificate issued by Regina Pacis Night School dated 10th August, 2015 clearly mentions that, the date of birth of Respondent is 18th September, 1979 and while taking admission in the said School on 15th June, 1998, her name was entered into the register as Tiwari Arti Prakash. That, she left the school in the year 2002 as per wish of her parents.

The Respondent has also placed on record a Government Gazette dated 11th November, 1999 indicating that, the name of the Respondent has been changed to Kum. Arti Prakash Tiwari from Kum. Arti Prasad Prasad.

The record further indicates that, the Appellant is the second wife of Mr. Prakash Tiwari. That, the Appellant performed marriage with Prakash Tiwari on 5th of April, 2013. The documents mentioned earlier are prior in point of time, than the marriage of the Appellant with Prakash Tiwari. Admittedly, the Respondent is in possession of the Suit Property as of today.

5 After taking into consideration the aforestated facts, this Court is of the considered view that, no interference in the impugned Order dated 27th March, 2017 is necessary as the interest of the Appellant is duly protected by the said Order.

 In view of the above, I find no merits in the Appeal. Appeal is accordingly dismissed.

 In view of dismissal of Appeal from Order itself, Civil Application Nos. 507 of 2017 does not survive and is also disposed off.

Sanjiv S.
Mashalkar

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(A.S. GADKARI, J.)