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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.927 OF 2020
IN
SECOND APPEAL NO.470 OF 2013

Atmaram Dnyandeo Shinde] .. Applicant

v.

Shanta Suresh Shinde & Ors.] .. Respondents

Mr.Prabhanjan Gujar, for Applicant.

Mr.Yuvraj Patil i/b Mr.Pankaj Deokar, for Respondents.

CORAM : N.R.BORKAR, J.

DATE : 30TH MARCH, 2021.

P.C.

1] This application is taken out by the original appellant with a following prayer :

“That by an Order of this Hon’ble Court the Applicant be permitted to construct toilet on the suit property.”

2] The Respondent No.1, herein had filed the suit for partition of the suit property. The trial Court decreed the said suit. The first appellate Court dismissed the appeal filed by the Appellant.

3] It is averred in the present application that, at present the appellants are using the general public toilet situated in the area. It is further averred that appellants are senior citizens.

4] The learned counsel for the contesting non-applicants/respondents submits that the trial Court has decreed the suit for partition and first appellate Court has confirmed the decree. It is submitted that in such situation, permission as sought by present application may not be granted.

5] This Court has already admitted the present Second Appeal. Considering the averments made in the application, in my view, it would be proper to allow the prayer made in the application. Hence, following order is passed :

O R D E R

- i] The application is allowed.
- ii] The appellant is permitted to construct toilet on the suit property. The permission is granted without prejudice to the rights and contentions of the parties and it is made clear that the appellant shall not claim any equity on the basis of present permission, or on the basis of construction of toilet at the time of execution of decree, if it is confirmed by this Court.

iii] Needless to say that the appellant shall obtain necessary permission from concerned Authorities before carrying out the construction of the toilet.

iv] Application is disposed of.

[N.R.BORKAR, J]