

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

INTERIM APPLICATION NO. 854 OF 2021

IN

SECOND APPEAL NO. 86 OF 2016

Laxman Satu Dhakwal, Since deceased through legal heirs, Janaki Laxman Dhakwal & Ors.	...Applicants
and	
Anant Maruti Patil	...Defendant

Mr.Shailendra Kanetkar with Nikhil Dongre for Applicants/Original Respondents.
Mr.Abhikesh Kadam i/b Mr. Sanjiv Sawant for Respondent/Original Appellant.

CORAM : S.C. GUPTE, J.

DATE : 24 MARCH 2021

P.C. :

This interim application seeks a clarification of the order passed by this court on 8 January 2021 in a civil application taken out in the second appeal. The order of 8 January 2021 *inter alia* clarifies the status quo order passed by this court in the second appeal on 11 July 2017. The order makes it clear that it is the Respondents to the original second appeal who are in possession of the suit property; they could not create any third party rights or part with its possession to any third party pending the hearing and final disposal of the second appeal. It was further clarified that maintenance of status quo by the Respondents would also imply that the Respondents could not take any steps for changing the revenue record in respect of the suit properties.

2 It is the case of the Applicants/original Respondents in the

second appeal that since the Applicant of the earlier civil application, in which the order of 8 January 2021 was passed, was referred to in the order by his nomenclature in the original second appeal, that is to say, as a Respondent, taking advantage of this reference, the original Appellant in the second appeal (who was Respondent in the civil application) is purposely interpreting the order of 8 January 2021 to mean that what was clarified in the order was the factum of his possession and not the possession of the Respondent to the original civil appeal, whose legal heirs are the Applicants in the civil application. It is submitted that even the statutory authorities, who were approached as a result of interference in the possession of the original Respondents by the original Appellant, are interpreting the order to mean that it is the Appellant in the civil appeal, who has been declared to be in possession of the suit property. Accordingly, a clarification has been sought concerning the order of 8 January 2021.

2 Learned Counsel for the Respondent to the interim application (original Appellant in the second appeal) objects to this application on the ground that the order sought by the Applicants herein shall amount to granting them relief in the second appeal of the other side. I am afraid, that is not a correct way of looking at the present application. What the present application seeks is merely a clarification of the order originally passed on 8 January 2021. It is the case of the Applicants that need for such clarification arises as a result of the reference to the original Applicants to the civil application as Respondents, going by the nomenclature in the original second appeal, which is resulting into a misinterpretation of the order of 8 January 2021.

3 Accordingly, interim application is disposed of in terms of the

following order :

It is clarified that the word “Respondent” in paragraphs 4 and 5 of the order dated 8 January 2021 applies to the Applicants of the civil application, in which the order of 8 January 2021 came to be passed. It is the Applicants, namely, the legal heirs of deceased Laxman Satu Dhakwal, who were Applicants in Civil Application (Stamp) No.33057/2018 and who are Respondents in the present second appeal, who have been held to be in possession of the suit property in the order of 8 January 2021 and their possession cannot be disturbed by the original Appellant in the second appeal, namely, Anant Maruti Patil, either by entering into the suit property or by carrying out any agricultural or other activities therein either by himself or through his agents or persons claiming through him, as a result of the order of 8 January 2021.

(S.C. GUPTE, J.)