

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.219 OF 2019
WITH
CIVIL APPLICATION NO.173 OF 2019

Neelkanth Maruti Vishe & Ors. .. Applicants

Versus

Ghanshyam Gurunath Mahajan & Ors. .. Respondents

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Dr.D.S.Hatle with Mr.Deepak Jamsandekar for the Applicants.

Mr.Girish G. Togani for the Respondent No.5.

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CORAM: BHARATI DANGRE, J.

DATED : 15th NOVEMBER, 2021

P.C:-

1. By the present Civil Revision Application, the present applicants (original defendants) have challenged the order passed on 24/08/2018 passed by the Appellate Court in Misc.Civil Appeal No.199 of 2017, thereby modifying the order dated 18/09/2018 passed below Exhibit-5 by the 7th Joint Civil Judge J.D., Bhiwandi in Regular Civil Suit No.680 of 2015.

2. The respondents i.e. the original plaintiffs had instituted Regular Civil Suit No.680 of 2015 and filed an application for temporary injunction, seeking two fold reliefs; not to disturb the title and possession over suit property of the plaintiff and not to take the possession of suit property by force in of “suit

property”. On consideration of the said application, a finding is recorded that the plaintiffs and defendants have filed different sale deeds with respect of suit properties for decision of appointment of commissioner and the sale deeds in favour of the defendants are of undivided portions which are less than 10 R and in view of the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holding Act, various rights are created and if the injunction is granted then the defendants will be restrained from possession over their properties. In the wake of the aforesaid finding being rendered and by further recording that Gurunath Mahajan, who was the original owner, has sold half of the suit properties to some persons and subsequently this property was purchased by the defendants and that the plaintiffs become owner of half unsold property of Gurunath Mahajan, but the said properties are not well demarcated, but as the title of suit property is not disputed, the application was partly allowed and the learned Civil Judge, Junior Division restricted the relief as under :

“Defendant Nos.1 to 4 is hereby temporarily restrained not to disturb title over suit property of the plaintiffs.”

3. Being aggrieved, the plaintiffs instituted the Appeal and the order passed by the First Court was modified by the Appellate Court to the following effect :-

“Defendant Nos.1 to 4, their agent, representatives, or anybody acting on their behalf are hereby temporarily restrained from disturbing the possession of plaintiffs, over the suit property, till disposal of the suit.”

The said order is dated 24/08/2018 and continue to govern the parties in the said suit till today. It is informed by the learned counsel appearing for the respective parties that the suit is at the stage of cross-examination and the respective parties would be satiated if the trial court is directed to conclude the suit expeditiously.

4. Since the interim injunction is in operation since 2018 and the suit is at the stage of its culmination, I deem it appropriate to request the learned Civil Judge, Junior Division, Bhiwandi to conclude the proceedings of Regular Civil Suit No.680 of 2015 on or before 31/01/2022. Both the parties undertake that they shall render their co-operation in conclusion of the said suit.

5. With the aforesaid direction, by continuing the order dated 24/08/2018 passed by the Appellate Court, the Civil Revision Application is disposed of.

6. In view of the disposal of the Civil Revision Application, Civil Application does not survive and stands disposed of.

(SMT. BHARATI DANGRE, J.)