

PMB

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

**APPEAL FROM ORDER NO.195 OF 2022
WITH
INTERIM APPLICATION NO.1325 OF 2022**

Jasmin Mohanlal Doshi and anr. ..Appellants
vs.
Khushal Devji Gala and ors. ..Respondents

Mr. R. M. Haridas for appellants.
None for respondents.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 14, 2022.

P.C. :

1. Heard learned counsel for the appellants.
2. The appellants are the original defendant nos.4a and 4b. It is the contention of learned counsel for the appellants that the plaintiffs gifted the suit property by a registered gift deed dated 01.07.2020 in favour of the plaintiffs' son i.e. defendant no.1 and daughter-in-law i.e. defendant no.2. The defendant nos.1 and 2 in turn sold the property by the registered sale deed dated 28.05.2021 to the appellants (defendant nos.4a and 4b). The plaintiffs filed a suit for declaration that the gift deed dated 01.07.2020 is false and

fabricated and for other consequential reliefs.

3. By an order dated 07.12.2021, the trial Court was pleased to dispose of the Notice of Motion No.2506 of 2021 filed by the plaintiffs for injunction by granting interim relief in terms of prayer clause (b). The trial Court observed that the defendant nos.4a and 4b though served failed to appear before the Court to contest the Notice of Motion. The trial Court further observed that the appellants are in possession. The injunction is in nature restraining the defendant nos.4a and 4b from creating any third party interest during the pendency of the suit.

4. Learned counsel may file an appropriate Notice of Motion/Application before the trial Court pointing out the reasons why they could not remain present and contest the Notice of Motion as it is the contention of learned counsel for the appellants that due to Covid and some miscommunication, the appellants could not remain present on the date of hearing. If such Notice of Motion/Application is filed, the same shall obviously be considered by the trial Court in accordance with law.

5. I have not made any observation on the merits or otherwise on the contentions raised in this matter.

6. Appeal From Order is disposed of. In view of the disposal of the Appeal From Order, nothing survives for consideration in the Interim Application and the same stands disposed of.

(M. S. KARNIK, J.)