

SHALIKRAM
PRALHADRAO
BOREY

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by SHALIKRAM
PRALHADRAO
BOREY
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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO. 261 OF 2022
WITH
INTERIM APPLICATION NO. 1790 OF 2022
IN
APPEAL FROM ORDER NO. 261 OF 2022**

Jasbir Kaur Viridi & Ors.

... Appellants /Applicants.

Versus

Daljitsingh Dilipsingh Viridi & Ors.

... Respondents.

Mr. Sudhir V. Sadavarte, Advocate for the Appellants/Applicants.

Mr. S.C. Wakanker, Advocate a/w. Aishwarya Bapat, Advocate for the Respondent No. 1.

Mr. A. R. Gole, Advocate for Respondent Nos. 2, 3 & 4.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : DECEMBER 12, 2022.**

P.C. :-

1. With consent, heard finally at the stage of admission.

2. This appeal from order assails the order dated 26.10.2021 passed by the learned Additional Judge, Small Causes Court, Pune, rejecting interim relief in respect of the properties described in para nos. 1(a), 1(b) and 1(d) of the plaint.

3. The brief facts of the case are as under:-

Respondent No.1 is the brother of One Mr. Gurmeetsingh, late husband of the Plaintiff No. 1. It is the case of the plaintiffs that said Gurmeetsingh and Respondent No.1 owned properties which are described in para nos. 1(a), 1(b), 1(c) & 1(d) of the plaint. The plaintiffs claim that the respondent no.1 (original defendant no. 1) has sold the properties described in para nos. 1(a) and 1(b) to Defendant Nos.2 and 3. Apprehending further transfers, the plaintiffs sought to restrain the defendant Nos.2 and 3 from alienating or creating third party rights in respect of the properties described in para nos. 1(a) and 1(b). The plaintiffs further claim that they are in possession of the property described in para no. 1(d) and they sought to restrain the defendant no. 1 from alienating and /or interfering with their possession and creating third party rights in respect of the said property.

4. Heard learned counsel for the appellant/plaintiff and the learned respondent/defendant. I have perused the record and considered the submissions advanced by the learned counsel for the respective parties.

5. The records, prima facie, indicate that defendant no. 1 had

purchased the property described in para nos.1(a) vide sale deed dated 09.06.1989. Defendant No.1 sold the said property to defendant nos. 2 and 3 vide sale deed dated 04.12.1992. Similarly, property described in para no.1(b) was purchased by the defendant no. 1 by deed of sale dated 09.06.1989, which was rectified in the year 1998. Defendant no. 1 has sold the property described in para 1(b) to defendant nos. 2 to 4 by sale deed dated 07.06.2011.

6. There is no challenge to the sale deeds dated 09.06.1989 and 04.12.1992; where under the defendant no. 1 had purchased the properties. The Plaintiffs have not produced any other material to, prima facie, prove their title in respect of these two properties. Hence, rejection of the interim relief in respect of properties described in para nos. 1(a) and 1(b) does not suffer from any illegality or infirmity.

7. As regards the property described in para no. 1(d), it is not in dispute that the Plaintiffs are in possession of the same. Learned counsel for the defendant no.1 states that the plaintiffs are in illegal possession and that the defendant no. 1 has already filed a suit for recovery of possession of the said property.

8. Needless to state that the person in settled possession cannot be dispossessed without due process of law. Learned counsel for the defendant no. 1 makes a statement that the defendant no. 1 shall not interfere with the plaintiff's possession of the said property described in para 1(d) till possession of the said property is recovered by following due process of law. Statement is accepted.

9. Under the circumstances and in the light of this statement, the appeal is partly allowed. Pending the suit, the defendants are restrained from interfering with possession of the Plaintiff in respect of property described in para 1(b) except by resorting to due process of law.

10. Interim Application does not survive and the same is disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

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