

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3571 OF 2022

IN

FIRST APPEAL (ST) NO. 11173 OF 2022

Moti Dinshaw Irani & Anr ...Applicants

In the matter between

Moti Dinshaw Irani & Anr ...Appellants

Versus

Sakharabai Dinshaw Irani & Ors ...Respondents

INTERIM APPLICATION (L) NO. 11176 OF 2022

IN

FIRST APPEAL (ST) NO. 11173 OF 2022

Moti Dinshaw Irani & Anr ...Applicants

In the matter between

Moti Dinshaw Irani & Anr ...Appellants

Versus

Sakharabai Dinshaw Irani & Ors ...Respondents

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**Mr Siddhesh Bhole, with Srishti Joshi, i/b SSB Legal & Advisory, for
the Applicants/Appellants.**

**Mr Ravindra Keshvrao Adsure, with Kaustubh Kulkarni & Yash
Prashant Sonavane, for the Respondents.**

**CORAM G.S. Patel &
Prithviraj K Chavan, JJ.**

DATED: 30th June 2022

PC:-

1. The Appellants were not parties to the original Suit. They seek leave to appeal. The Plaintiffs were the present Respondents Nos. 1, 2 and 3 and the Defendants were Respondents Nos. 4, 5 and 6. Now the heirs of Respondent No. 4, since deceased, are on record. The Plaintiffs sought a declaration that they had acquired good and perfect title to certain immovable properties by adverse possession. The property is old City Survey No. 4, now Final Plot No. 418, part of Survey No. 697/1 of village Gultekadi, Taluka Haveli, District Pune, obviously very valuable.

2. All parties are members of one family. Descent is claimed from an ancestor Khodaram. The Plaintiffs and the two proposed Appellants are descendants of one Dinshaw, himself one of the sons of one of Khodaram's son, Kaikhushroo. The property descends from a Will made by Kaikhushroo's brother, Rashid. That Will is dated 1st November 1970. The Plaintiffs branch and the Appellants' branch are of the same degree of kinship and descent from Dinshaw, Kaikhushroo's son.

3. A declaration of title was sought by the original Plaintiffs against Dinshaw's brother Dara, second brother Fardoon and the son of the deceased brother, Tehmur.

4. On a prima facie evaluation and on seeing a family tree presented to us, it appears that the Appellants have sufficient ground to claim that their rights to the property are affected. The Plaintiffs' cause of action would be shared by the Appellants. We

are told that in fact the Plaintiffs sought impleadment. That application was rejected. The Suit was then decreed with a very short time.

5. Today we are only granting the Appellants leave to Appeal. We are not admitting the Appeal itself. We will list the Appeal for admission after two weeks. All contentions are kept open. If there are any documents or records that are required for the Appeal and which are not part of the paper-book, liberty to both sides to prepare a compilation of these documents. The Registry will proceed to accept the Appeal and have it numbered.

6. There is an accompanying Interim Application (L)No. 11175 of 2022 for stay. We are not making a final order on this Interim Application. We issue notice. The Interim Application (L) No. 11175 of 2022 is returnable on that day.

7. In any case, the status-quo as of today is to be maintained until the next date.

8. List the matter on 19th July 2022.

(Prithviraj K Chavan, J)

(G. S. Patel, J)