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

**APPEAL FROM ORDER NO. 161 OF 2021
WITH
INTERIM APPLICATION NO. 1674 OF 2021**

Leena Chaban Tonde ..Appellant
vs.
Dilip Yashwant Padale and ors. ..Respondents

Mr. Atul G. Damle, Senior Advocate i/b Mr. Hitesh P. Vyas,
for appellant.
Mr. Chaitanya Mulawkar i/b Mr. Sandeep S. Salunkhe, for
respondent no.1.
Ms. Bindvasini Yadav, for respondent no. 2.
Mr. J.P. Sen, Senior Advocate i/b Mr. Makarand B. Savant,
for respondents no. 7 and 9.
Mr. G.S.Godbole i/b Mr. Parag Tilak, for respondents no. 11
and 12.
Mr. Janak Dwarkadas, Senior Advocate a/w Mr. J.P. Sen,
Senior Advocate, Mr. Nirman Sharma, Mr. Akshay Doctor
and Mr. Parag Sawant i/b P.S.Chambers, for respondents no.
13 and 14.

**WITH
APPEAL FROM ORDER ST. NO. 2585 OF 2021
WITH
INTERIM APPLICATION ST. NO. 18922 OF 2021**

Dilip Yeshwant Padale .. Appellant
Vs.
Smt. Leena Chaban Tonde and ors. .. Respondents

Mr. Chaitanya Mulawkar i/b Mr. Sandeep Salunkhe, for Appellant.

Mr. Atul G. Damle, Senior Advocate i/b Mr. Hitesh Vyas, for respondent no. 1.

Ms. Bindvasini Yadav, for respondent no. 2.

Mr. Makarand B. Savant, for respondents no. 7 and 9.

Mr. G.S.Godbole i/b Mr. Parag Tilak, for respondents no. 11 and 12.

Mr. Janak Dwarkadas, Senior Advocate a/w Mr. J.P. Sen, Senior Advocate, Mr. Nirman Sharma, Mr. Akshay Doctor and Mr. Parag Sawant i/b P.S.Chambers, for respondents no. 13 and 14.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 14, 2022

ORAL ORDER :

1. Heard learned Senior Advocate Shri Damle, appearing for the appellant, learned advocate Shri Mulawkar, appearing for respondent no. 1, learned Senior Advocate Shri Sen, appearing for the respondents no. 7 and 9, learned advocate Shri Godbole, appearing for respondents no. 11 and 12 and learned Senior Advocate Shri Dwarkadas, appearing for respondents no. 13 and 14.

2. The challenge in this appeal from order is to an order dated 26/11/2020 passed by the Civil Judge, Senior Division & 7th Addl. Judge, Small Causes Court, Pune, partly

allowing the application- Exhibit 184 filed by the appellant-original plaintiff. The appellant filed the suit in the year 2012 for declaration that the gift deed be declared as null and void. Shorn of unnecessary details, brief facts are as under:

3. Pandurang Vishnu Padale claimed to be the absolute owner of the property in dispute. During his lifetime, Pandurang gifted the suit property to his grandson -Dilip Yashwant Padale by a gift deed dated 18/12/1957. Pandurang had two children, son- Yashwant and daughter – Godavari. Dilip-respondent no. 1- original defendant no. 1 is the son of Yaswant whereas the plaintiff-Leena is the daughter of Yashwant. Though the gift deed is dated 18/12/1957, the suit was filed for declaration of the gift deed to be null and void only in the year 2012 by the appellant-plaintiff-Leena. It is the contention of the plaintiff that the relations between the parties were cordial and therefore the plaintiff never opposed the defendant no. 1 dealing with the suit property. This she did so in good faith as she always thought that her share in the suit property

would be given to her.

4. The application Exhibit 5 was initially filed in the suit of 2012 which, for the one reason for the other was not decided. The application Exhibit 184 which is decided by the impugned order, was filed, as according to the plaintiff, during the pendency of the suit, defendants no. 7 and 9 have sold some part of the suit property transferring the interest in favour of the defendants no. 13 and 14. Learned Senior Advocate, Shri Damle submitted that defendants no. 13 and 14 are in the process of further creating rights in the property which will prejudice the appellant.

5. The trial Court has partly allowed Exhibit 184. The trial Court granted injunction in respect of the survey no. 24/7 admeasuring 00.33 R which in its view was an ancestral property. So far as survey nos. 39/1 admeasuring 0.9 hectare 53 R, 39/2 admeasuring 0.5 Hectare 9 R and 40/1, admeasuring 00 Hectare 63 R situated at Village-Mhalunge, Taluka Mulshi, District-Pune are concerned, the trial Court was prima facie of the opinion that the properties was the self acquired property of the Pandurang and hence,

refused to grant any injunction.

6. Learned Senior Advocate Shri Damle assailing the order passed by the trial Court submitted that the trial Court was not justified in proceeding on the footing that the properties are self acquired properties of Pandurang. In his submission, once the plaintiff pleaded that property in question was the self acquired property of Pandurang, then it was for the defendants to have dislodged the plea taken by the plaintiff regarding the jointness of the properties. According to Shri Damle, there is nothing on record produced by the defendants to show that the properties are the self acquired properties of Pandurang. It is then submitted by learned Senior Advocate Shri Damle that Pandurang during the lifetime of his son- Yashwant, gifted the suit property in favour of his grandson -Dilip (defendant no.1). Shri Damle submitted that Dilip, at the relevant time, when gift was made in his favour, was a minor. Relying on the provisions of the Hindu Minority and Guardianship Act, 1956 (hereafter referred to as "the said Act", for short), Shri Damle submitted that the gift deed

itself is void as during the existence of natural guardians of Dilip, one Raghu Padale was shown as a guardian in the gift deed. Shri Damle submitted that such a gift deed is *ex facie*, during the lifetime of Dilip's father Yaswant, void. Learned Senior Advocate relied upon the provisions of section 6 of the said Act to contend that during the lifetime of the father and mother of a minor, it is only the father and/or mother who could be appointed as a natural guardian and no one else. My attention is also invited to section 11 of the said Act to submit that after the commencement of the said Act, no person shall be entitled to dispose of, or deal with, the property of a Hindu minor merely on the ground of his or her being the *de facto* guardian of the minor. It is Shri Damle's submission that Pandurang could not have appointed Raghu as a natural guardian. It is thus the submission that the subsequent transactions by defendant no. 1 on his attaining majority are illegal and of no consequence.

7. Learned counsel on behalf of the respective respondents argued in support of the impugned order. It is

submitted that the order passed by the trial Court is a well reasoned order and it cannot be said that there is any perversity in the findings recorded. Learned Senior Advocate Shri Dwarkadas submitted that the gift deed is of the year 1957. The suit is filed by the appellant after a long delay of 55 years. The properties have been dealt with by the defendant no.1 in whose favour the gift deed was made by Pandurang only after he attained majority. The first transaction was in the year 1977 and there have been several such transactions right upto the year 2011, despite which the suit is filed for the first time in the year 2012. Shri Dwarkadas submitted that there is no embargo for Pandurang to have gifted the property in favour of his grandson- Dilip. It is further submitted that Yaswant i.e. Dilip's father never objected to the gift deed during his lifetime. It is further submitted that the trial Court rightly observed that Raghu acted in his capacity as a Manager of the property.

8. Relying on the decision of the Supreme Court in the case of **K. Balakrishnan Vs. K. Kamalam and ors.**¹,

¹ (2004) 1 Supreme Court Cases 581

learned Senior Advocate Shri Dwarkadas submitted that though a minor suffers disability from entering into a contract, but he is thereby not incapable of receiving property. The Transfer of Property Act does not prohibit transfer of property to a minor. Shri Dwarkadas submitted that it is not as if the properties gifted to the minor are disposed of by the guardian during defendant no.1's minority. In fact, upon attaining the majority, in the revenue records, the name of defendant no. 1 was entered into.

9. Shri Dwarkadas then submitted that so far as the finding of the trial Court regarding the self acquired property is concerned, the trial Court has correctly in paragraph 47 recorded that there was nothing to demonstrate as to how the properties became joint family properties in the hands of Pandurang. To support his submission that *prima facie* it is for the plaintiff to establish that the properties are joint family properties, learned Senior Advocate relied upon the decision of this Court in the case of **Gopal Bhagwandas Ahuja Vs. Jagdish Bhagwandas Ahuja**², more particularly, paragraphs 49 to

² (2013) 7 Bom CR885

56 and 70, which read thus:

"49. In my view Court must also see whether plaintiff has been able to demonstrate even prima facie as to whether in any of the other businesses in which plaintiff, his wife or son are not partners and such firm in which defendant no.1 or his family members are partners or shareholders and/or directors of the companies whether at any point of time, profit and loss of such business or properties were shared amongst the family members including the plaintiff as income and/or loss arising out of joint family businesses.

50. Mr.Dwarkadas, learned senior counsel invited my attention to the letters addressed by his client to the plaintiff's advocate calling upon the plaintiff to disclose his income tax returns and accounts to show as to whether any of the properties standing in the name of various partnership firms and/or companies were claimed as Hindu undivided properties or as to whether any profit and/or loss of such firm and/or companies were claimed to have been received and disclosed by the plaintiff in his personal income tax return and/or books of accounts. It is not in dispute that the plaintiff did not offer any such inspection. It is not in dispute, plaintiff also did not produce any such documents, on record.

51. Mr.Shah, learned senior counsel in fairness conceded that in none of the personal income tax returns and/or books of accounts, plaintiff has claimed any of the properties standing in the name of various partnership firms and/or private limited company described in Exs.B, B1 and C of the plaint as joint Hindu family properties and/or claimed to have been received any profit and/or loss from the said businesses nor has shown any liabilities of any such company and/or firm as that of the plaintiff in his personal income tax returns and books of accounts. In my view, Mr.Dwarkadas, learned senior counsel is right in placing reliance on the judgment of this Court in case of Shivani S.Roy (supra). In my view admissions made by a party before wealth tax and income tax authorities cannot be ignored and the same would be against the public policy. It is held that if a party has not claimed before revenue authority that he

was owner of a particular property, he cannot be permitted to approbate and reprobate. I am not inclined to accept the submission of Mr.Shah, learned senior counsel appearing for the plaintiff that though no amount of profit and/or loss was distributed by various partnership firms controlled by defendant no.1 or other defendants and/or private limited company controlled by defendant no.1 to the plaintiff and/or other members of the family, it would have no bearing on the issue whether such properties/businesses would be Hindu undivided property or not and distribution of such profit or property would be only at the time of partition of property and not otherwise. Court has to see whether any profit and loss from such businesses which are claimed to be joint family businesses are shared and/or distributed by parties before drawing any inference that such businesses and properties were joint family businesses and/or properties. In my prima facie view, plaintiff has failed to establish by producing any documents on record to demonstrate that any of such partnership firms and/or companies which are controlled by defendant no.1 and/or other defendants, any profit was distributed to the plaintiff or that he had shared any liabilities of such firm and/or companies as the member of the joint Hindu Family or otherwise.

52. In my prima facie view, since 1982 onwards, various businesses came to be started by the defendant no.1 and other defendants independently. It is not the case of the plaintiff that in businesses and properties standing in the name of the plaintiff and his wife and/or son in which none of the defendants are the partners with the plaintiff or his family members, any profit and/or loss was distributed by the plaintiff and his family to the defendants including defendant no.1. On the contrary, record will indicate that plaintiff has claimed exclusive share in some of the immovable properties which were given as security in respect of various loans. None of the defendants have made any claim in such properties as properties of the joint family businesses or joint properties or otherwise. Though at the conclusion of arguments, Mr.Shah, learned counsel appearing for the plaintiff submits that plaintiff has no objection if all the businesses and/or properties standing in the name of

plaintiff, his wife and his sons are treated as properties of joint family properties and/or joint family businesses. In my prima facie view, all the contesting defendants are rights in their objection to such submission being made across the bar at this stage. It is submitted that all the businesses which are described in Exh.B, B1 and C to the plaint are independent and self acquired businesses of the respective parties in whose name it stands and are not Hindu undivided family businesses and/or properties. Objection is also raised on the ground that there is no such pleading made by the plaintiff to the effect that all such properties standing in the name of the plaintiff, his wife and son were also acquired out of the joint family fund and/or joint family properties and as joint family properties and/or businesses.

53. Mr.Dwarkadas, learned senior counsel invited my attention to the letter dated 1st July, 2010 addressed by the plaintiff to the 1st defendant and his wife (Ex.I-5 of the plaint). Mr.Dwarkadas, learned senior counsel laid emphasis on the contents of the said letter in support of his submission that the plaintiff had accepted the position that he was partner with the 1 st defendant in one of the partnership firm in his individual capacity and was entitled to share of profit in that partnership firm. It is also alleged in the said letter that defendant no.1 had not shared any profit from the construction and marble business though plaintiff was alleged to be partner. On perusal of the said letter dated 1 st June, 2010, in my prima facie view, the plaintiff had represented the 1st defendant that plaintiff was having 50% share in the various businesses as equal partner with 1 st defendant and such claim was not on the basis of such business/properties being Hindu undivided family businesses/properties. It is not the case of the plaintiff in the said letter that as a member of Hindu undivided family, he had 1/10th share. The plaintiff has claimed equal share with that of the 1st defendant. In my prima facie view, the claim of the plaintiff that all such businesses which are under the control of the 1st defendant or other defendants are joint Hindu family businesses is ex facie an afterthought.

54. Though plaintiff has claimed 1/10th share in all the properties described in Ex.B, B1 and C, it is not in

dispute that the Defendant nos. 3 and 6 who are supporting the plaintiff has not filed any independent proceedings claiming their 1/10th share in the property as described in Exs.B, B1 and C or any of the properties. Defendant nos. 2, 4, 5, 7 and 9 to 11 have filed supporting affidavits in this proceedings in favour of defendant no.1 stating that the father of the plaintiff and defendant nos. 1 to 8 never started any joint family business. It has been stated that the plaintiff as well as defendant no.1 have started their respective businesses from their self acquired fund. It is further stated that the business of the company as mentioned in the suit were not started out of any joint family fund and are not joint family businesses. Those defendants also made a statement across the bar through their counsel that none of the defendants have claimed any share in any of the properties standing in the name of the plaintiff, his wife or son or the 1st defendant as all such properties were their self acquired properties and not joint family properties and/or businesses. Defendant no.1 also through their learned senior counsel Mr.Chinoy made a statement that in respect of the properties of business standing in the name of the plaintiff, his wife and son, no right, title or interest of whatsoever nature is being claimed by the 1st defendant as the same are self acquired by the plaintiff, his wife and son and none of the businesses run by each of them are joint family businesses and/or properties.

55. It has been held by the Supreme Court in case of Surjit Lal Chhabda (supra) that the property of joint family may consist of ancestral property, joint acquisition and/or self acquired thrown into a common stock. Question that arises for consideration of this court is whether prima facie plaintiff has made out a case whether any of the properties described in Exs. B, B1 and C of the plaint are jointly acquired by the members of the family or any of the self acquired properties by the plaintiff and/or by defendants are thrown into a common stock. In my prima facie view, plaintiff has been unable to show even prima facie that any of the properties described in Exs.B, B1 and C and/or businesses mentioned therein have been started out of the joint funds or any of the properties standing in the name of

the individual partnership firm and/or companies were ever considered as joint Hindu undivided businesses and/or properties. No profit and/or loss has been distributed by any of this firm and/or to parties partners and/or shareholders. I am therefore prima facie not inclined to accept the submission of Mr.Shah, learned senior counsel that any of such businesses and/or properties standing in the name of individual members and/or firm and/or companies are to be treated as joint family properties or the same having been thrown into the common stock. Supreme Court in case of Bhagwan Dayal (supra) has approved the legal position summarised in Mayne's Hindu Law, 11th Edition that one or more members of the family can start business or acquire properties without the aid of the joint family properties but such business or acquisition would be of his or their acquisition. This legal position summarized in the said treatise that even if the business was started or the properties so acquired can be thrown into common stock or blended with the joint family property becomes the estate of the joint property. Such person need not do so in which case the said property would be of his or their self acquisition and succession to such property would be governed not by the law of joint family but only by the rights inter se between the members who have acquired the said property as per terms of the agreement whereunder it was acquired. In my view, such properties which are standing in the name of the partnership firm and/or company and/or individual and which are self acquired properties and are not thrown into common stock would be governed by the agreement whereunder such properties are acquired and cannot be considered as Hindu undivided properties and/or businesses.

56. I am of the prima facie view that in the year 1969, when the firm M/s.Kanayalal Rameshkumar started, there was no joint Hindu family business in existence. Sections 4 and 5 of the Partnership Act, 1932 makes it clear that the said Act governs only that relation of partnership which arise from the contract and not from the status as the one obtaining amongst the members of the joint Hindu family trading partnership. Sections 4 and 5 has been construed by the Supreme Court in case of Nanchand G.Shetji (supra) and it has been held that

legislature in its wisdom excluded joint Hindu trading families from the operation of the Partnership Act.

70. In my prima facie view, plaintiff is unable to establish any rights in respect of any of the properties described in Exhibit-B, B-1 and C to the plaintiff as the properties of Hindu undivided family. Plaintiff is unable to show any nucleus by demonstrating before this Court even prima facie, that the income generated by his father prior to 1969 was used by father in starting the partnership business in the name of M/s Kanayalal Rameshkumar in 1969 and thereafter by defendant No.1 and others by use of such income generated out of such firm in other businesses started by defendants. In my prima facie view, the plaintiff has failed to discharge such initial burden on the plaintiff to prove that all such businesses and properties described in Exhibits-B, B-1 and C are Hindu undivided family businesses and properties. The defendant no. 1, 2, 4, 5, 7 and 8 state that in so far as properties and businesses which are standing in the name of the plaintiff, his wife and his son are concerned or firms and companies in which those defendants are not partners/shareholders, all such properties and businesses are the properties of the plaintiff, his wife and his son and are not Hindu undivided family properties and/or businesses. All these defendants have also made statement that they do not make claim in respect of any of those properties and/or businesses. Statements made by the contesting defendants are accepted."

10. It is further submitted that this is not a case where it would be equitable to grant an injunction in favour of the appellant who came to the Court after 55 long years and challenges the gift deed knowing fully well that several of the properties were sold prior to the filing of the suit. It is submitted that even in respect of the properties which the

defendants no. 13 and 14 have purchased from the defendants no. 7 and 9, the properties were sold in favour of the defendants no. 7 and 9 in the year 2004 and 2007 respectively, much prior to the filing of the suit in the year 2012. He submitted that it would be inequitable to grant any injunction to the plaintiff at this stage.

11. Learned Senior Advocate Shri Dwarkadas then invited my attention to the decision of the Supreme Court in the case of **Mahadeo Savlaram Shelke and ors. Vs. Pune Municipal Corporation and anr.**³, placing reliance on paragraph 12 of the said decision which reads thus:

"12. In "Modern Law Review", Vol 44, 1981 Edition, at page 214, R.A. Buckley stated that "a plaintiff may still be deprived of an injunction in such a case on general equitable principles under which factors such as the public interest may, in an appropriate case, be relevant. It is of interest to note, in this connection, that it has not always been regarded as altogether beyond doubt whether a plaintiff who does thus fail to substantiate a claim for equitable relief could be awarded damages". In "The Law Quarterly Review" Vol 109, at page 432 (at p. 446), A.A.S. Zuckerman under Title "Mareva Injunctions and Security for Judgment in a Framework of Interlocutory Remedies" stated that

"if the plaintiff is likely to suffer irreparable or uncompensable damage, no interlocutory injunction will be granted, then, provided that the plaintiff would be able to compensate the defendant for any unwarranted restraint on the defendant's right pending trial, the

3 (1995) 3 Supreme Court Cases 33

balance would tilt in favour of restraining the defendant pending trial. Where both sides are exposed to irreparable injury pending trial, the courts have to strike a just balance".

At page 447, it is stated that

"the court considering an application for an interlocutory injunction has four factors to consider : first, whether the plaintiff would suffer irreparable harm if the injunction is denied; secondly, whether this harm outweighs any irreparable harm that the defendant would suffer from an injunction; thirdly, the parties' relative prospects of success on the merits; fourthly, any public interest involved in the decision. The central objective of interlocutory injunctions should therefore be seen as reducing the risk that rights will be irreparably harmed during the inevitable delay of litigation".

12. Learned Senior Advocate also placed reliance on the decision of this Court in the case of **Aviat Chemicals Pvt. Ltd. Vs. Jagmohansingh Arora and ors.**⁴ to contend that Aviat was a case where the Court held that it was incumbent on the respondents (Arora) to obtain injunction to compensate the applicants (Aviat) for the damages or the loss of profit which they have suffered due to the passing of the ad-inerim order dated 04/02/1999. This, in order to support his contention that unless there is a strong prima facie case, balance of convenience and irreparable loss in favour of the plaintiff, injunction should not be granted.

4 2000 (3) Mh.L.J. 66

13. Learned Senior advocate Shri Sen and Shri Godbole invited my attention to the relevant findings in the impugned order to submit that impugned order does not warrant any interference in this Appeal.

14. Heard learned counsel for the parties at length. The gift deed which is under challenge is dated 18/12/1957. Defendant no.1's grandfather-Pandurang gifted the suit property in favour of the defendant no.1 during the lifetime of defendant no. 1's father-Yashwant. Yashwant undoubtedly was a natural guardian of Dilip. During the lifetime of Yaswant, he never objected to the gift deed in favour of his son Dilip. It is only after defendant no.1-Dilip attained majority some time in the year 1968, that he disposed of a part of the property for the first time in the year 1977. Since 1977 upto 2011 several properties out of suit property have been sold by the defendant no.1. It is only in the year 2012, i.e. almost after 55 years since the execution of the gift deed that the appellant i.e. defendant no. 1's sister filed the suit for declaration and injunction. The application Exhibit 5 filed in the year 2012 was never

decided for one reason or the other. So far as defendants no. 7 and 9 are concerned, part of the suit property was sold and transferred to them by the defendant no.2 on 21/06/2004 and 03/10/2007.

15. The application Exhibit 184, the decision on which is the subject matter of challenge in this Appeal, was filed on 04/09/2019 for the relief that defendants be temporarily restrained from creating third party interest in the suit property. In my prima facie opinion, the gift deed executed by Pandurang in favour of his grandson-Dilip cannot be said to be unlawful. It is seen that no part of the property gifted to defendant no.1-Dilip has been disposed of during his minority. The properties were dealt with by Dilip only after he attained majority. His father – Yashwant never opposed such gift deed during his lifetime though he was a natural guardian. Raghu, who is alleged to be a guardian, as per the gift deed, and to whose guardianship an objection is raised by the appellant-plaintiff, did not deal with or dispose any property during the minority of Dilip.

16. So far as the contention of Shri Damle that the

property in question was a joint family property, I find that except for stating that the property is a joint family property in the hands of Pandurang, there is absolutely no material on record to substantiate the jointness. The recitals in the gift deed do indicate that one of the properties i.e. survey no. 24/7 is an ancestral property and to that extent, the trial Court has granted injunction. However, so far as the other properties are concerned, the trial Court has recorded that the plaintiff merely pleaded that the property is the joint family property and that the plaintiff has not given any sort of flow in respect of the said properties as to how it became the joint family property. The trial Court has further recorded that the details as to the acquisition of rights in the said property has not been stated by the plaintiff. In such circumstances, if the trial Court prima facie came to the conclusion that properties bearing survey nos. 39/1, 39/2 and 40/1 are self acquired properties of Pandurang, I do not find any perversity in such prima facie findings to warrant interference.

17. It is pertinent to note that the plaintiff has

approached the trial Court with a suit for declaration and injunction almost 55 years after the gift deed was executed. Several transactions were entered into by defendant no.1 during this period and to the knowledge of the plaintiff. There is no injunction in favour of the plaintiff since 2012 when the suit was filed. The trial Court by a well considered order refused injunction in respect of properties in survey nos. 39/1, 39/2 and 40/1, whereas, finding that one of the property is ancestral in nature, granted injunction so far as survey no. 24/7 is concerned. The Appeal from order is therefore dismissed. In view of dismissal of the appeal from order, nothing survives for consideration in the interim application and the same also stands disposed of.

18. Considering that the suit is of the year 2012, I am inclined to accept the request made by learned Senior Advocate Shri Damle that suit needs to be expedited. The trial Court is requested to decide the suit as expeditiously as possible and preferably within a period of 18 months from 16/11/2022. The parties to appear before the trial

Court along with the copy of this order on 16/11/2022. The parties to co-operate with the trial Court in the expeditious disposal of the suit.

19. Needless to mention that the observations made by me in this order and that of the trial Court are prima facie in nature and the trial Court will obviously decide the suit on its own merits without being influenced by any observations made by me in this order and by the trial Court in the impugned order. No costs.

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20. The trial Court passed a common order below Exhibits 184 and 195. I have already dismissed the appeal in its challenge to the order passed below Exhibit 184.

21. The defendant no. 1 is aggrieved with that part of the order by which the trial Court granted injunction in respect of part of the suit property i.e. survey no. 24/7, admeasuring 0.33 R. I have gone through the well considered findings of the trial Court. The trial court has considered the recitals in the gift deed itself which makes a

reference to the property in survey no. 24/7 being an ancestral property. Based on such recitals, prima facie, the trial Court has come to the conclusion that injunction should be granted. I do not find any perversity with such finding of the trial Court. Hence, Appeal from Order Stamp No. 2585 of 2021 is dismissed. In view of the disposal of the appeal from order, interim application also stands disposed of. No costs.

(M. S. KARNIK, J.)