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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2306 OF 2021

IN

FIRST APPEAL NO.641 OF 2020

Dr Chittusinh Mohansinh Chauhan

...Applicant

Versus

Manilal Babubhai Dhodi & Anr

...Respondents

Dr Ranjit Thorat, *Senior Advocate with Varsha Palav, Pratibha Shelke, Anuj Tiwari, Ajinkya Palav, i/b The Laureate for the Appellant/Applicant.*

Mr Mayur Khandeparkar, *with Sanjiv Sawant, Abhishek Matkar, Malhar Bageshwar i/b Abhishek Deshmukh for Respondent No 1.*

**CORAM G.S. Patel &
 Madhav J. Jamdar, JJ.**

DATED: 7th March 2022

PC:-

1. The First Appeal has already been admitted by an order dated 9th March 2021.

2. The suit itself was for declaration, possession and permanent injunction in respect of certain land at Survey No 121/25 of about 26 Are at village Amli, at Dadra & Nagar Haveli. The ultimate decree of 29th February 2020 decreed the suit, and declared that a sale deed dated 15th December 1999 at Exhibit-64 was bogus, illegal and not binding. Similarly, it held that a Power of Attorney at

Exhibit-65 was not genuine. Finally, it directed Defendant No 1 (the present Appellant) to deliver possession of the property. The possession decree specifically demanded that 1st Defendant remove construction created on the land and that possession of empty plot be returned to the Plaintiff within two months.

3. The record itself thus indicates, as Mr Thorat correctly points out, that the Appellant is in possession of the property and in fact has carried out construction on it.

4. We dispense with calling for the record and proceedings. We are informed that a private paperbook has in fact been filed. Both sides agree that the private paperbook is enough for the disposal of the First Appeal.

5. We direct the Appellant not to part with possession, create third party rights or encumbrances of any nature whatsoever over or in respect of the land or the building until further orders of the Court. We are told that there is an industrial factory plant on the premises. We do not permit letting out, leasing or giving on leave and license of any part of the land or the building without prior leave of the Court obtained after at least three weeks' prior notice to the Advocate for the Respondent.

6. The Respondent is at liberty to make an appropriate application, if so advised, as to any terms and conditions that should be imposed on the Appellant.

7. List the Appeal for hearing and final disposal on 1st July 2022 at 2.30 pm.

8. Interim Application is disposed of in these terms. No costs.

(Madhav J. Jamdar, J)

(G. S. Patel, J)