

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

APPEAL FROM ORDER NO.159 OF 2022

Ramchandra Krushnaji Pise(deceased)
through Lrs. ..Appellants

v/s.

Chimaji Krishnaji Pise & Ors.. ..Respondents

Mr. Rahul Kadam for the Appellant
Mr. B.S.Shinde for the Respondent No.1.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 7th MARCH, 2022.**

P.C.

1. The Appellants(Original Defendants) have challenged the Order dated 30.07.2021, whereby the learned District Judge, Baramati, has allowed the Application at Exhibit 5 filed by the Respondents (Plaintiffs) and have restrained the Appellants from creating third party rights in the suit property till final disposal of the appeal.
2. Heard learned Counsel for the Appellants and learned Counsel for the Respondent. Perused the records.
3. The Appellants had filed a suit for partition, which has been

dismissed and the said judgment has attained finality. The Respondents filed another suit for partition contending that some of the properties were not included in the previous suit. The suit came to be dismissed by judgment dated 16.03.2020 mainly on the ground that the Respondents had failed to prove that the properties were joint family properties and held that the same are self-acquired properties of Ramchandra Pise (Original Defendant No.1). Being aggrieved by the said judgment, the Respondents preferred an appeal alongwith application at Exhibit 5 seeking to restrain the Appellants from alienating the property.

4. The learned Judge has held that the existence of Joint Hindu Family is admitted. Relying upon the evidence of the member of Tanta Mukta Samiti of the Village as regards settlement agreement and referring to the previous statement for partition, learned Judge has held that the Respondents have made out prima facie case.

5. It may be mentioned that the question whether the suit property is a joint family property or self acquired property needs adjudication on merits. Sale or alienation of the property pending such adjudication will result in multiplicity of proceedings. The

records indicate that the Appellants have already executed a gift deed in favour of Respondent No.2 and as such the apprehension of the Respondent about alienation of property is legitimate and well founded.

6. Considering all above facts and circumstances, I am not inclined to interfere with the impugned order. The Appeal is dismissed. The Appellate Court to make an endeavor to dispose of the Appeal as expeditiously as possible.

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(ANUJA PRABHUDESSAI, J.)