

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 10210 OF 2021 IN
SECOND APPEAL NO. 665 OF 2018

Durgabai Khushalchand Rathi
(Deceased through LRs)

Applicant

Versus

Sadakunnwar w/o Pannalall Bharadiya
(deceased through LRs) & others

Respondents

Mr. P. R. Katneshwarkar, Advocate holding for Mr. V. S. Undre,
Advocate for the applicant

Mr. A. P. Bhandari, Advocate for respondents No. 1-B & 1-D to 1-I.

Mr. S. S. Gangakhedkar, Advocate for respondent No. 3.

CORAM : R. M. JOSHI, J.

DATE : 25th APRIL, 2023.

PER COURT :

1. This application is moved for restraining respondents from creating third party interest in the suit property.

2. Learned counsel for the applicant states that the appeal is admitted and having regard to the nature of dispute between the parties, it would be appropriate that the respondents are restrained from creating third party interest in the suit property.

3. Learned counsel for legal heirs of respondent No. 1 states that infact the appellant herein has sold the property and therefore, if at all injunction is to be granted, it should be against all the parties to the suit.

4. The present suit is filed on the basis of will-deed executed by Ramprasad. The Trial Court had dismissed the suit which came to be decreed by the First Appellate Court. It is not a case wherein the issue of determination of share is involved but the question of right of plaintiff or defendants to the suit properties is the question posed for determination. Having regard to the facts brought to the notice of this Court that even appellant has created third party interest in some of the suit properties, this Court finds it just and necessary to restrain appellant as well as respondents from creating third party interest in the suit property in order to avoid further complications in the proceedings.

5. Hence, appellant and respondents are hereby restrained from creating third party interest in suit properties in any manner whatsoever till decision of the appeal.

6. Civil application stands disposed of in above terms.

(R. M. JOSHI)
Judge

dyb