

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 15290 OF 2016
IN SA/808/2016**

Jyoti Rasik Kothari and another .. Applicants

Versus

Dagu Shankar Gaikwad
Died through L.Rs.
Chandrakant Dagdu Gaikwad and others .. Respondents

Mr. Anil S. Bajaj, Advocate for the Applicants.
Mr. A. K. Gandhi, Advocate h/f Mr. Punit S. Mehta, Advocate for
Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 27th OCTOBER, 2023.

P. C. :-

. Heard learned advocates for the parties.

2. This application is filed seeking injunction and restraining respondents from alienating and creating third party interest by way of sale, agreement, mortgage, gift, lease, license or in any other mode in the suit property. The appeal is already admitted by order dated 24.08.2023 by framing substantial questions of law by hearing the parties. This application was adjourned at the request of respondents. On going through the orders, on 10.08.2023 it is seen that the matter was adjourned as a last chance to 21.08.2023. It was again adjourned

at the request of respondents for filing reply to the civil application to 07.09.2023. On 07.09.2023 it was adjourned to 14.09.2023 at the request of respondents for filing reply. It was made clear that, no further adjournment would be granted. Today, when the matter is called out again a request is made for adjournment on behalf of respondents. Since 2-3 times matter was adjourned as a last chance this Court finds that, the application can be taken up for orders today.

3. Learned advocate for the applicants submits that, this Court has already admitted the appeal. If the respondents are not restrained from creating third party interest, there is apprehension of creating third party interest in the property and the appeal may become infructuous or at least there will be complications. It is therefore necessary to keep the status of the property as it is.

4. Learned advocate Mr. Gandhi for respondent No. 2 though initially prayed for grant of adjournment, however, looking to the fact that there will be apprehension, a prayer is rejected. Learned advocate submits that, nothing is shown in the application which would give rise to apprehension that the property is likely to be disposed off or third party interest is likely to be created and no case is made out for grant of relief.

5. Considering that the appeal is already admitted and relief is only that no third party interest be created this Court finds that, it would be in the interest of justice to allow the application.

6. Thus, the civil application is allowed in terms of prayer clause (B) till final disposal of the second appeal.

7. The civil application is disposed off.

(KISHORE C. SANT, J.)

RS.B.