

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

**APPEAL FROM ORDER NO. 673 OF 2022
WITH
INTERIM APPLICATION NO. 10125 OF 2022**

Shital/Sheetal Ananda alias ...Appellants
Anandrao Kudale 2
Shital/Sheetal Pratik Jhagde
(after marriage) and anr.

V/s.

Eknath Shankar Kudale ..Respondents
(Deceased), and Ors.

Mr. Dileep Satale i/by. Mr. Harshad Bhadbhade, for the Appellants.

Mr. R.D. Soni h/f. Mr. V.R. Kasle i/by. Ram & Co. for the Respondents.

CORAM : SANDEEP V. MARNE, J.

Dated : 4 September 2023.

P.C. :

1. By this Appeal, the Appellants challenge order dated 29 October 2020 passed by the 2nd Joint Civil Judge Senior Division, Pune rejecting application for temporary injunction. Plaintiffs have instituted Special Civil Suit No.276/2018 for partition and declaration. In the suit, they filed application for temporary injunction to restrain Defendants No.1 to 26 from alienating the

suit property or creating third party interest and not to part with possession.

2. The Trial Court has come to the conclusion that there have been several transactions of transfer in respect of the suit properties by which Defendants No.22, 24, 25 and 26 have purchased the suit properties. Though the Plaintiffs have sought a relief that the sale transactions will not affect Plaintiff's share in the suit property, the dates of execution of the said transfers are not disclosed. Mr. Soni, learned Counsel for Defendant No.26 would submit that the sale transactions have been effected during various years from the year 2004 to 2018. The Trial Court has accused the Appellant-Plaintiff of delay in not challenging the said sale transactions. On that count essentially, the Appellant-Plaintiff's prayer for temporary injunction has been rejected.

3. The Trial Court has also arrived at a *prima-facie* finding that the Appellant-Plaintiff could not prove that the suit properties are joint family properties.

4. In that view of the matter, the Trial Court cannot be faulted for rejecting Appellant-Plaintiff's application for temporary injunction. The Appeal being devoid of merits is **dismissed** without any orders as to costs.

5. With dismissal of the Appeal from Order, Interim Application taken out for stay does not survive. The same is disposed of as having become infructuous.

NEETA
SHAILESH
SAWANT

SANDEEP V. MARNE, J.

Digitally signed by
NEETA
SHAILESH
SAWANT
Date: 2023.09.07
10:31:58 +0530