

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.95 OF 2021
WITH
INTERIM APPLICATION NO.957 OF 2021
IN
APPEAL FROM ORDER NO.95 OF 2021

SHIVAJI KANTHAPPA

PUTHRAN & ANR.

....APPELLANTS/APPLICANTS

V/S

SAGAR SHIVAJI PUTHRAN

....RESPONDENT

...

Mr. Nikhil Patil a/w Ms. Vibha Joshi i/b M/s. Zunjarrao & Co. for the
Appellants/Applicants.

...

CORAM: SANDEEP V. MARNE, J.

DATE : SEPTEMBER 04, 2023.

P.C.:

1 By this Appeal, the Appellants challenge order dated 4 March 2020 passed by the City Civil Court by which Notice of Motion No.2802 of 2019 has been made absolute in terms of prayer clause (g). The rest of the prayers sought for in the Notice of Motion have been declined. Prayer clause (g) in Notice of Motion No.2802 of 2019 reads thus:

“g] That this Hon’ble Court be pleased to grant a interim order and injunction restraining the Defendant No.1 & No.2 and their servants, agents and any person calling by through and/or under them and/or any one or more of them from in any manner using the Gift Deed dated-19/01/2018 bearing no.BBE-4-707-2018 pursuant to flat of Ratna and the alleged Gift Deed dated-

19/01/2018 beariang no.BBE-4-709-2018 pursuant to flat of Sadhana & General Power of Attorney dated-25/04/2013 bearing no.BBE-3 IV-2019 during pendency of said suit;"

2 Thus, the limited *ad-interim* protection which is granted by the City Civil Court is a restraint order during pendency of suit against the Appellants from using the Gift Deed dated 19 January 2018 in respect of flat in building named Ratna and Gift Deed dated 19 January 2018 in respect of flat in building named Sadhana as well as the General Power of Attorney dated 25 April 2013 during pendency of the suit. The interim order has been operating since 4 March 2020.

3 The learned Counsel appearing for the Appellants would submit that they are in possession of the said two flats. The Court has not restrained the Appellants from possessing the flats in any manner. The only apprehension that the learned Counsel for the Appellants would express is about the prospective redevelopment of the building and expresses an apprehension that Respondent would rely upon the order of the City Civil Court to prevent the developer from granting any rights in respect of the flats in favour of the Appellants. As of now there is no concrete redevelopment proposal. Therefore, there is no necessity of examining correctness of the order passed by the City Civil Court only on the basis of some eventuality which may occur in future. If indeed any redevelopment proposal is processed by the Society and if it is found that the order passed by the City Civil Court is coming in the way of executing

any redevelopment agreement, the parties will be at liberty to approach the City Civil Court to obtain necessary orders. At this stage, it cannot be said that the Appellants are facing any prejudice on account of the order of limited temporary injunction passed by the City Civil Court. In that view of the matter, reserving the liberty as indicated, the Appeal is disposed of.

4 In view of the disposal of the Appeal, the above Interim Application is also disposed of accordingly.

(SANDEEP V. MARNE, J.)