

Prajakta Vartak

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 220 OF 2021
IN
CIVIL MISCELLANEOUS APPLICATION NO. 117 OF 2021
WITH
INTERIM APPLICATION NO. 3090 OF 2022
WITH
INTERIM APPLICATION NO. 2084 OF 2021**

Mr. Kisan Rajaram Chougule & Anr.	...Appellants
Vs.	
Mrs. Suvarna Ananda Chougule & Anr.	...Respondents

Mr. Madhur Rai i/b. Mr. Sachin Kanse for Appellants.
Mr. Sachin Hande for Respondents.

**CORAM : G.S. KULKARNI, J.
DATE : FEBRUARY 15, 2023**

P.C.:

1. This appeal arises from an order dated 16 July, 2021 passed by the learned Civil Judge, Senior Division, Sangli, on an application filed by the appellants under Exhibit 24 in the proceedings of Civil Miscellaneous Application No. 117 of 2021 praying for a stay to the probate of the Will dated 20 October, 2014 of one Rajaram Bhau Chougule as obtained by the respondents.

2. This appeal was moved before a Co-ordinate Bench of this Court on

31 August, 2021, when while issuing notice to the respondents, a Co-ordinate Bench of this Court passed an ad-interim order directing the respondents to maintain status-quo, as on that day. The record indicates that the said protection as granted by this Court has continued to operate till date.

3. Case of the appellants before the learned trial Judge is to the effect that the learned Civil Judge, Senior Division, Sangli by an order dated 05 March, 2021 passed on Civil Miscellaneous Application No. 255 of 2018 in the proceedings filed by the respondents under Section 276 of the Indian Succession Act for issuance of probate, allowed the said application without the citation being served on the appellants who are the son and daughter of the deceased Rajaram Chougule, who is stated to have executed the Will dated 20 October, 2014. Both the respondents are stated to be sisters-in-law of the appellants. On the other hand, the respondents contend that the probate has been lawfully granted in favour of the respondents in as much as they were taking care of the deceased and were the beneficiaries under the Will in question. Such is the controversy in the proceedings before the trial Court.

4. In my opinion, in the fact situation, it would be appropriate that the

learned trial Judge takes up for hearing and adjudication the Civil Miscellaneous Application No. 117 of 2021 as filed by the appellants which is pending on the file of the learned trial Judge and dispose of the same as expeditiously as possible, so that all contentions as urged on behalf on the appellants and the respondents can be gone into in such proceedings.

5. As the ad-interim protection granted by this Court on 31 August, 2021 is in operation till date, it is appropriate that the same shall continue to operate till the decision of Civil Miscellaneous Application No.117 of 2021. Ordered accordingly.

6. The learned trial Judge shall make an endeavour to decide the application as expeditiously as possible and within a period of 8 months from today.

7. The appeal is disposed of in the above terms. All contentions of the parties are expressly kept open.

8. Interim applications would not survive. The same stand disposed of.

[G.S. KULKARNI, J.]

corrected as per speaking to minutes order dated 24.02.2023