

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 874 OF 2022

WITH

INTERIM APPLICATION NO. 17976 OF 2022

Suresh Shivajirao Kale & Anr.

... Appellants/Applicants

Versus

Mahesh Shivajirao Kale & Ors.

... Respondents

Mr. Shailendra Kanetkar for the appellants.

Ms. Manjiri Parasnis for the respondents.

CORAM: G. S. KULKARNI, J.

DATED: 24 February 2023

P.C.

1. Heard Mr. Kanetkar, learned counsel for the appellants and Ms. Parasnis, learned counsel for the respondents.

2. This Appeal from Order is filed assailing an order dated 9 June, 2022 passed by the 4th Additional Judge, Small Causes Court at Pune below Exhibit-95 in Special Civil Suit No. 577 of 2021.

3. Learned counsel for the respondents has brought to the notice of the Court an earlier order dated 12 January, 2022 wherein the learned Trial Judge has observed that ad-interim injunction as granted earlier by order dated 6 May, 2021 shall continue to be in operation, till decision on the concerned applications.

4. Perusal of the record indicates that initially the learned trial Judge was pleased to pass an order on 26 March, 2021 on the Exhibit 5 application as

filed by the respondents/plaintiffs. Subsequent to which, there is an order dated 8 June, 2021 passed by the learned Judge directing that till the adjourned date of hearing, both the parties shall not to create third party interest in whatsoever manner in the impugned property. Thus, both the orders were to operate till the disposal of the application Exhibit-5, Exhibit 19 and Exhibit-59. The applicants have moved the learned Trial Judge by the application under “Exhibit 19” for vacating the order. Thus, not only the Exhibit-5 application but also the said application as filed by the applicants are pending adjudication.

5. In the above circumstances, in my opinion, as an ad-interim order is impugned in the present appeal which has continued to operate for a long period, it is appropriate that the pending interim applications itself be taken up and decided by the learned trial Judge. The parties shall cooperate in the early disposal of the applications. The learned Trial Judge is directed to take up such applications and after the pleadings are complete, decide the same as expeditiously as possible and preferably within three months thereof. All contentions of the parties are expressly kept open.

6. Disposed of in the above terms. No costs.

7. In view of disposal of Appeal from Order, Interim Application would not survive. It is also accordingly disposed of.

(G. S. KULKARNI, J)