

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.961 OF 2022
WITH
INTERIM APPLICATION NO.19010 OF 2022**

Sunita Suresh Mangade and Ors. ... Appellants
versus
Kiran Rohidas Thorve & Ors. ... Respondents

Dr. Abhinav Chandrachud i/by Mr. Pavan Patil for Appellants.
Mr. Chetan Nagare for Respondent Nos.1 and 2.
Mr. Abhijit P Kulkarni with Ms. Sweta Shah for Respondent Nos.3 to 7.
Mr. Shriram Kulkarni with Mr Pranjal Khatavkar for Respondent Nos.18 to 20 and 22,
23 and 25.
Mr. Mayur Khandeparkar with Mr. Parth Jasani i/by Purnanand and Co., for
Respondent No.24.

CORAM: N.J.JAMADAR, J.

DATE : 30 MARCH 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This appeal is directed against an order dated 30 July 2022 passed by the learned 14th Joint Civil Judge, Sr. Division, Pune, on an Application for temporary injunction filed by Defendant Nos.6 to 9 – Appellants herein, seeking temporary injunction against Respondent Nos.1 and 2 – original Plaintiffs from alienating the suit properties till the decision of the Suit.
3. When the matter was listed before this Court on 2 March 2023, this Court has, inter alia, passed the following order :

“2. On perusal of the impugned order it appears that the application has been rejected broadly on two grounds.

I) That application is not supported by affidavit.

II) The rights of the applicants are protected under Section 52 of the Transfer of Property Act, 1882.

3. Prima facie, both the reasons are not sustainable. This Court was inclined to remand matter back to learned Trial Court. However, in absence of original Plaintiffs being represented, such order cannot be passed.

4. Issue notice “For Final Disposal” to the Respondent Nos.1 and 2, returnable on 30 March 2023.

5. In the meantime, ad-interim relief order granted by this Court shall operate against original Plaintiffs.”

4. The learned Counsel for the Respondents/Plaintiffs fairly submits that having regard to the nature of the impugned order, it would be appropriate that the impugned order is set aside and the application for temporary injunction is remitted back to the learned Civil Judge for afresh determination.

5. In view of the above, the following order is passed :

(i) Appeal stands partly allowed.

(ii) The impugned order dated 30 July 2022 passed below Application Exhibit 146 stands quashed and set aside.

(iii) The Application is restored to file of the learned Civil Judge, Pune.

(iv) The learned Civil Judge, Pune is directed to decide the

Application after giving an effective opportunity of hearing to the parties on its own merits and in accordance with law, as expeditiously as possible.

(v) To rule out the possibility of prejudice, ad-interim order in terms of paragraph 5 extracted above, shall continue to operate till the decision of the application (Exhibit 146).

(vi) No order as to costs.

(vi) Interim Application also stands disposed.

(N.J.JAMADAR, J.)