



TEWAN

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

WRIT PETITION NO.11579 OF 2023

Mrs. Priti Prabhakar Dhuri

And Others

... Petitioners

Versus

Amit Vijay Parsekar

And Others

... Respondents

* * *

Mr. Suresh M. Sabrad a/w Mr. Vikram V. Walawalkar a/w Mr. Amey C. Sawant for the Petitioners.

* * *

CORAM : SANDEEP V. MARNE, J.

DATE : 15 SEPTEMBER 2023

P.C.

. Heard Mr. Sabrad, learned Counsel appearing for the Petitioners.

2 This Petition is filed on a complaint that though the City Civil Court was moved on 28 August 2023 for seeking an urgent ad-interim relief to restrain Respondent Nos.2 and 3 from carrying out the amendment in the share certificate, on the basis of reliance of Respondent No.1 on probate obtained in breach of the consent terms dated 11 October 2016, the City Civil Court has adjourned

the hearing of Miscellaneous Application to 16 September 2023 without considering the prayer for grant of interim relief.

3. Mr. Sabrad, learned Counsel vehemently submits that under paragraph-19 of the consent terms, Respondent No.1 had specifically agreed to withdraw the Petition No.1895 of 2015 filed before this Court for grant of probate of Will dated 15 September 2003. He would submit that the statements made in the consent terms were accepted by the City Civil Court while disposing of the Suit and, therefore, the act of Respondent No.1 in continuing with the probate proceedings is in breach of the Order passed by the City Civil Court. He would express an apprehension that Respondent No.1 is attempting to transfer the share certificate in his name by making the application to the society.

4. In my view, since Miscellaneous Application No.196 of 2023 is scheduled to be heard on 16 September 2023, it would be appropriate that the City Civil Court decides the prayers including the prayer for grant of ad-interim relief, rather this Court exercising its writ jurisdiction at this juncture in the matter. Accordingly, the Writ Petition is disposed of with a request to the City Civil Court to decide Miscellaneous Application No.196 of 2023

or at least the prayer for grant of ad-interim relief on 16 September 2023. The Writ Petition is, accordingly, disposed of.

(SANDEEP V. MARNE, J.)