

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 1211 OF 2015
WITH
CIVIL APPLICATION NO.1539 OF 2015

Dilip Babubhai Shah & Ors.

...Appellants

Versus

Babubhai Sardarmal Shah & Ors.

...Respondents

...

Mr. Surel Shah a/w Ms. K.R. Daviervalva & Mr. Yazdi P. Jijina i/by Mulla & Mulla & Craigie Blunt & Caroe, for Appellants.

Mr. Girish Godbole, Senior Advocate i/by Mr. Devashish Godbole for Respondent No.16(a).

Mr. Nitin V. Gangal a/w Mr. Ashok D. Kadam for Respondent Nos. 4, 7, 10, 11, 12, 14 & 15.

...

CORAM : SANDEEP V. MARNE, J.

DATE : OCTOBER 26, 2023.

P.C.:

1. The challenge in the present Appeal is to the order dated 22 July 2015 passed by Civil Judge, Senior Division Palghar, rejecting application filed by the Appellants/Plaintiffs at Exhibit-103 in Special Civil Suit No.41 of 2010 for appointment of Court Receiver. The application for appointment of Court Receiver at Exhibit-103 was filed by the Plaintiffs on 18 April 2012. The

application was filed on an apprehension that the Defendants were about to create third party rights in respect of the suit properties. It appears that after filing of the application at Exhibit-103 dated 18 April 2012, the Civil Court granted temporary injunction in favour of the Plaintiffs vide order dated 17 January 2013 restraining Defendant Nos.1 to 33 from creating any third party rights in respect of the suit properties. The trial Court has thereafter proceeded to reject the application at Exhibit-103 for appointment of Court Receiver by order dated 22 July 2015.

2. By now period of eight long years has elapsed from the date of rejection of application for appointment of Court receiver. The order of temporary injunction passed by the trial Court on 17 January 2013 was tested by the Defendants in Appeal from Order No.444 of 2013 which came to be disposed of by this Court by order dated 22 March 2022. While disposing of the Appeal, this Court has directed the trial Court to make an endeavour to dispose of the Special Civil Suit No.41 of 2010 expeditiously. The learned counsels appearing for the parties would submit that the Special Civil Suit No.41 of 2010 still continues to pend before the trial Court. Since a period of eight long years has elapsed from the date of passing of the impugned order dated 22 July 2015, instead of determining the correctness of the order at this

distant date, it would be appropriate to once more request the Trial Court to take up the Special Civil Suit No.41 of 2010 for hearing in an expeditious manner.

3. Accordingly, the Appeal from Order is disposed of requesting the Trial Court to expedite the hearing of Special Civil Suit No.41 of 2010 and to make an endeavour to decide the same as early as possible, preferably within a period of six months from today.

4. In view of disposal of Appeal, Civil Application does not survive and stands disposed of.

(SANDEEP V. MARNE, J.)