

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.1117 OF 2022
WITH
INTERIM APPLICATION NO.20630 OF 2022
IN
APPEAL FROM ORDER NO.1117 OF 2022

Bibhishan Vyankatrao Gaikwad & Anr.APPELLANTS
VS
Chandrashekhar Shivkumar Daga & Anr.RESPONDENTS

...
WITH
APPEAL FROM ORDER NO.1118 OF 2022
WITH
INTERIM APPLICATION NO.20631 OF 2022
IN
APPEAL FROM ORDER NO.1118 OF 2022

Renuka Suhas Nagesh
alias Renuka Mangesh Padhye & Anr.APPELLANTS
VS
Chandrashekhar Shivkumar Daga & Anr.RESPONDENTS

...

Mr. Girish Godbole, Senior Advocate a/w Mr. Mandar Soman i/b
Mr. Surendra, K. Chaudhari for the Appellants/Applicants in AO 1117 of
2022 and IA 20630 of 2022.

Mr. Simial Purohit i/b Mr. Dushyant Krishnan for Applicants/Appellants
in AO 1118 of 2022 and IA 20631 of 2022.

Mr. Devansh Mohta a/w Ms. Deepika Mule and Mr. Sandeep Malik and
Mr. Manoj Pawar i/b Mr. Kiran S Mohite for Respondent Nos.1 and 2.

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CORAM: SANDEEP V. MARNE, J.
DATE : SEPTEMBER 08, 2023.

P.C.:

1 By this Appeal, the Appellants challenge order dated 15 July 2022 passed by the Civil Judge Senior Division, Vadgaon-Maval, Pune, allowing the Plaintiffs' application for temporary injunction and restraining the Defendants from alienating, parting with the possession and creating third party interests over the suit property till the disposal of the Suit.

2 I have heard Mr. Godbole, the learned Senior Advocate and Mr. Purohit , the learned Counsel appearing for the Appellants in the matters. I have also heard Mr. Mohta, the learned Counsel appearing for Respondent Nos.1 and 2 in both the Appeals. The learned Counsels submit that recording of the reasons would not be necessary for disposal of the Appeals and Interim Applications. With the consent of the parties following order is passed:

ORDER

i) In pursuance of order passed by this Court on 31 July 2023 Mr. Mohta, the learned Counsel appearing for Respondent Nos.1 and 2 has placed on record the Probate of Late Shivkumar Daga. The certified copy of the Probate is retained on the record.

ii) Mr. Purohit makes a statement that the Appellants in Appeal from Order No.1118 of 2022 shall submit a Bank Guarantee for amount of Rs.1,56,35,000/- with the Trial Court within a period of four weeks from today.

iii) Mr. Mohta, the learned Counsel for Respondent Nos.1 and 2 would submit that since the amount sought to be recovered in the suit is now being secured by the Bank Guarantee, the order of injunction granted by the Trial Court on 15 July 2022 restraining the Defendants from alienating, parting with possession and creating third party interests in the property need not be continued. Accordingly, subject to Appellants in Appeal from Order No.1118 of 2022 submitting a Bank Guarantee for amount of Rs.1,56,35,000/- within a period of four weeks from today, the order passed by the Trial Court on 15 July 2022 is set aside.

iv) Mr. Purohit would submit that the original title deeds of the suit property were handed over to Late Shivkumar Daga as a security for alleged loan amount of Rs.1,56,35,000/- and since the amount is now being secured by way of Bank Guarantee, the Respondent Nos.1 and 2 must hand over the title deeds of the suit property. Mr. Mohta, the learned Counsel for Respondent Nos.1 and 2 fairly submits that the title deeds of the suit property shall be deposited with the Trial Court within a period of four weeks from today. The Appellants in Appeal from Order No.1117 of 2022 shall be permitted to withdraw the title deeds of the suit property so deposited by the Respondent Nos.1 and 2.

v) It is clarified that this order is passed without considering the contentions raised by the parties in the Appeals. All the contentions of the parties are kept open.

vi) In the event of the failure on the part of Appellants in Appeal from Order No.1118 of 2022 to submit the Bank Guarantee as observed above, the Appellants in Appeal from Order No.1117 of 2022 shall be entitled to revive the Appeal.

vii) The Appeals are accordingly disposed of.

viii) In view of the disposal of both the Appeals, both the Interim Applications are also disposed of accordingly.

(SANDEEP V. MARNE, J.)