

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

**INTERIM APPLICATION NO. 17511 OF 2022
IN
SECOND APPEAL NO. 174 OF 2006**

Shri Babaurao Pandurang Kale ... Applicant
Versus
Shri Popat Mahadu Dabhade
(deceased through Legal Heirs)
Balu Popat Dabhade & Anr. ... Respondents

Mr. Rohit Joshi for the Applicant.
Mr. Aditya Bendre i/by S. S. Kanetkar for Respondent Nos. 2A and 2B.
Mr. Dnyaneshwar Deshmukh a/w Sanjay Ranjane for Respondent Nos. 3 to 6.

CORAM: R. N. LADDHA, J.

DATE : 2 JANUARY 2024

P.C. :-

. Heard the learned counsel for the parties.

2. The applicant has filed the present Interim Application to implead proposed respondents No. 3 to 6 as party respondents to the Second Appeal. The learned counsel for the applicant submits that respondents No.1a to 1f have created third party rights by selling land to proposed respondent No.3, who in turn sold it to proposed respondents No.4 to 6. Thus, the proposed respondents No.3 to 6 are necessary parties and the Interim Application to

implead them as parties to the Second Appeal be allowed.

3. On the other hand, the learned counsel for proposed respondents No. 3 to 6 objected to the Interim Application and submits that these respondents are not necessary parties to the stage of appeal. He submits that the proposed respondents No.3 to 6 were aware of the liberty granted by this Court in its order dated 29 March 2012 passed in Civil Application No. 711 of 2011 in Second Appeal No. 174 of 2006 and thereafter, purchased the land. Further, this Court by an Order dated 29 April 2016 passed in Civil Application No. 1583 of 2014 in Second Appeal No. 174 of 2006 protected the interest of the applicant and any sale of the land was subject to the order passed in this appeal. Thus, these proposed respondents are not necessary parties and the Interim Application be dismissed.

4. A perusal of the Order dated 29 March 2012 reveals that this Court directed delineation of 26.5 Acres of land out of the 53 Acres by the Taluka Inspector of Land Records. This portion was left blank on the map and marked as 'x' for identification. Respondent No.1 was restrained by this Court to deal with this portion of the land till the pendency of this appeal, however, respondent No.1 was at liberty to deal with the other 26.5 Acres of land marked in green fluorescent colour. This Court by its Order dated 29 April 2016 continued the restriction upon respondent No.1 to deal with the land marked as 'x' and clarified

that in the event, respondent No.1 created any third party rights, the same would be subject to the orders passed in this appeal. The crux of the dispute between the parties for the present application is whether the land sold by the legal representatives of respondent No.1 falls within the restricted portion marked as 'x' and whether there was a breach of the injunction order by respondents No.1a to 1f. All these contentions can be raised by the parties at the time of the final hearing of the Second Appeal.

5. Accordingly, the Interim Application No. 17511 of 2022 stands allowed in terms of prayer clause (a). The amendment shall be carried out within a period of two weeks from the date of uploading of this Order.

6. List the Second Appeal along with the Interim Application bearing No. 17520 of 2022 on board on 22 February 2024.

R. N. LADDHA, J.