

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1557 OF 2019

IN

SECOND APPEAL NO. 809 OF 2019

Shri. Prakash S. Bhalekar And Ors. ...Appellants

Versus

Shri. Suryakant S. Bhalekar And Ors. ...Respondents

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Ms. Gauri Jadhav, for the Appellants.

Mr. Rahul P. Walvekar for Respondent Nos.1 & 2.

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CORAM : SANDEEP V. MARNE, J.

DATED : 12 JANUARY 2024.

P.C. :

This Civil Application is filed by the Applicants seeking restraint order against Respondents from disturbing possession of the Applicants in suit properties. The Appeal is admitted by a separate Order passed today by formulating substantial questions of law. It is admitted position that Appellants continue to be in possession of suit properties. The impugned decree of the Trial Court contemplates partition of the suit properties by meets and bonds. Entire defence of the Defendants is based on execution of will by Sadashiv. If the will is proved to be validly executed, Plaintiffs would not be entitled to any share in the suit properties. In that view of the matter,

during pendency of the Appeal, there shall be ad-interim relief in terms of prayer clause (c) and (d) of the Interim Application which reads thus :

(c) Pending the hearing and final disposal of the above mentioned Second Appeal, execution and implementation of the order dated 2.4.2019 passed by the District Judge Kolhapur in Regular Civil Appeal no.216/2015 whereby judgment and order dated 8.5.2015 passed by the Ld. 13th Joint Civil Judge Junior Division, Kolhapur in RCS No.812/2011 be stayed;

(d) Pending the hearing and final disposal of the above mentioned Second Appeal, the Respondents be restrained from disturbing the possession of the Appellants in the suit properties.

2. Interim Application is accordingly disposed of subject to condition that the Applicant would not create any third party rights or change the nature of the suit properties.

SANDEEP V. MARNE, J.

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