

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.17901 OF 2023
IN
SECOND APPEAL NO.712 OF 2023

Sunil Balaso Chavan
deceased through L.Rs.
Shailaja Sunil Chavan & Ors.Applicants
V/S

Jaysingrao Madhavrao Chavan
deceased through Legal Heirs
Chhayatai Pralhad Bhosale & Ors.Respondents

...
WITH
INTERIM APPLICATION NO.17903 OF 2023
IN
SECOND APPEAL NO.713 OF 2023

Dattaji Govindrao Shinde & Ors.Appellants
V/S

Jaysingrao Madhavrao Chavan
deceased through legal heirs
Chhayatai Pralhad Bhosale & Ors.Respondents

...
Mr. Vineet B. Naik, Senior Advocate with Chaitanya Chavan i/b Mr. S.R.
Ronghe for the Appellants/Applicants.
Mr. Atul Damle a/w Mr. Kuldeep U. Nikam for the Respondents.

...
CORAM: SANDEEP V. MARNE, J.
DATE : FEBRUARY 12, 2024.

P.C.:

1 Heard Mr. Naik, the learned Senior Advocate appearing for the
Applicants and Mr. Damle, the learned Senior Advocate appearing for the
Respondent Nos.1/1 to 1/5 (original Plaintiff).

2 The very fact that the First Appellate Court has directed Respondent Nos.1 to 20 (original Defendant Nos.1 to 8) to handover possession of the suit property in favour of the Plaintiff would indicate that the Plaintiff is not in possession of the suit property. On the contrary by virtue of various sale deeds executed in their favour on 15 June 1987, 20 June 1989, 21 July 1989, 29 June 1992 and 5 April 1995 Appellants claim possession in respect of the suit property. Since Plaintiff is admittedly not in possession of the suit property, it would be appropriate to stay the judgment and order of the First Appellate Court dated 4 September 2023. Accordingly during pendency of the Appeal the judgment and order dated 4 September 2023 passed by the District & Additional Sessions Judge-1, Sangli in Regular Civil Appeal No.53 of 2007 shall remain stayed subject to the condition that the Appellants shall not create any third party rights in respect of the suit property without the leave of the Court.

3 Interim Applications accordingly disposed of.

(SANDEEP V. MARNE, J.)

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signed by
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RAJALINGAM
KATKAM
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