

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 857 OF 2024

Shivling Gopinath Lokhande

...Appellant

Versus

Pravin Gopinath Lokhande

...Respondent

Mr. Deepan Dixit with Virendra Pandey i/b Jitesh Jadhav for the Appellant.

CORAM : M.M. SATHAYE, J.
DATE : 3rd DECEMBER 2024

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P.C. :

1. Heard learned counsel for the Appellant.
2. This is a rather peculiar case where the *ex-parte* ad-interim relief is rejected on completely misreading the substantial prayer made in the suit as well as the situation and placement of the movable property i.e. gold ornaments as pleaded by the Appellant/Plaintiff.
3. The Appeal is filed challenging the impugned order dated 08.11.2024 in Draft Notice of Motion in S.C. Suit No. 2400 of 2024 passed by Bombay City Civil Court, Dindoshi. By the said order, the ad-interim relief is rejected. Paragraph 2 of the impugned order records that this is the suit for simplicitor injunction and paragraph 4 records that golden ornaments which are subject matter of suit are kept in locker of the bank.
4. Learned counsel for the Appellant has invited this Court's attention to prayer clause 'k' of the plaint which indicates that this is a

suit for partition of properties mentioned in Schedule-I and Schedule-II in equal shares. The Appellant and Respondent are stated to be brothers. The suit is for partition of $\frac{1}{2}$ share and properties are described in detail in plaint. Attention of this Court's is also invited to paragraph 26 of the plaint, where it is specifically pleaded that the gold ornaments are kept in 'safe cupboard' and it is alleged that it is in control of the Respondent.

5. In that view of the matter, it is apparent that the Trial Court has considered the case at the stage of *ex-parte* ad-interim relief without understanding the basic apprehension and case of the Appellant. In that view of the matter, the impugned order deserves to be set aside.

6. Hence, following order is passed.

- (i) The impugned order dated 08.11.2024, is set aside.
- (ii) The Trial Court is directed to consider the motion for the ad-interim relief afresh after considering the pleadings as well as documents produced in support of the pleadings and pass appropriate ad-interim or any other order that the Court may deem fit, in accordance with law.

7. Appeal from Order is disposed of in above terms.

8. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)