

AGK

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

WRIT PETITION NO.8235 OF 2023

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Firoj Abdul Deshmukh

... Petitioner

V/s.

Yogita Anand Inamke & Ors.

... Respondents

Mr. Mandar Soman i/by Mr. Rushabh D. Phade for the petitioner.

Mr. Priyal G. Sarda for the respondents.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 21, 2025

P.C.:

1. The writ petition arises out of an order passed by the Appellate Court in an appeal under Section 104 of the Code of Civil Procedure, 1908. The prayer in the temporary injunction application was restricted seeking injunction against the defendants from disturbing plaintiffs' possession over the suit property. The Trial Court by order dated 10 January 2023 rejected the application for temporary injunction.

2. The Appellate Court dismissed the appeal. However, by clauses 2 and 3 of its order, directed the Collector to take possession of the suit property and also directed the Income Tax Officer to make an inquiry in relation to the agreement to sell dated 20 August 2021.

3. Considering the scope of the appeal under Section 104 as laid down by the Apex Court in *Wanders Ltd. & Anr. v. Antox India P. Ltd.*, reported in 1990 Supp (1) SCC 727, the Appellate Court could not have travelled beyond the scope of application and pass such order.
4. Hence, the order dated 29 April 2023 passed by the Appellate Court is quashed and set aside to the extent of clauses 2 and 3.
5. The writ petition accordingly stands disposed of. No costs.

(AMIT BORKAR, J.)