

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1366 OF 2019

IN

SECOND APPEAL NO. 720 OF 2018

Mahesh Bapurao Petkar and anr

.....Applicants

IN THE MATTER BETWEEN

Mahadev Rajaram Petkar and anr

.....Appellants

Vs.

Mahesh Bapurao Petkar and anr

....Respondents

Mr. Dilip Shinde for the applicants

Mr. Yash Naik i/b Mr. Vaibhav Gaikwad for the respondents

**IRESH
MASHAL**

CORAM : GAURI GODSE, J.

DATE : 6th JANUARY 2025

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ORDER:

1. This application is filed for modifying the order dated 26th February 2019 granting interim relief in the second appeal. The second appeal arises out of a decree for partition and separate possession. Learned counsel for the applicants submits that the appellant has created third party rights and handed over possession to third parties. Hence, he is not entitled for any interim relief.

Learned counsel for the applicants, however, do not dispute that the third party rights were already created when the order dated 26th February 2019 was passed.

2. The order was passed after hearing both the parties. The interim order only grants stay to the actual handing over of physical possession. Hence, I do not see any reason to modify the said order.

3. Learned counsel for the applicants further submits that though there was a direction to file private paper-book, learned advocate for the appellants has not yet complied with the said direction and therefore, the second appeal is still not ready for final hearing.

4. In view of the aforesaid, advocate for the appellants is granted eight weeks time to file private paper-book, failing which the second appeal will stand dismissed without further reference to the Court. Printing is dispensed with.

5. If private paper-book is filed within time, list the second appeal under the caption for 'Directions' on 10th March 2025.

6. Civil application is disposed of in aforesaid terms.

[GAURI GODSE, J.]