

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

(SR. NO. 902) SECOND APPEAL NO. 255 OF 2024

Imran S/o Ismail Hawaldar ...Appellant

Versus

Aajim S/o. Sadiq Choudhari And Anr. ...Respondents

WITH

(SR.NO. 903) SECOND APPEAL NO. 366 OF 2024

WITH

INTERIM APPLICATION NO. 9441 OF 2024

SNEHA
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CHAVAN

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Ameer S/o Ismail Hawaldar ...Appellant/
Applicant

Versus

Aajim S/o. Sadiq Choudhari And Ors ...Respondent

Mr. Prasad Kulkarni a/w Mr. Nakula Shukla and Mr. Amol Kanaki for the
Appellant/Applicants.

CORAM : M.M. SATHAYE, J.

DATE : 17th JUNE, 2025

P.C. :

1. Heard learned Counsel for the Appellants. Perused the record.
2. The Appellants are Defendants in suits filed by the Respondents for possession of the suit property on the basis of title. The Appellants in written statement raised a contention that the seller of the suit property (family member - Maimunbi) was not the owner of the suit property and the consideration-amount was contributed by the father of Defendants - Ismail Hawaldar which was earned out of the business of Mehendi and Mangal Bhandar.

3. Learned counsel for the Appellants submitted that the suit is filed without seeking declaration of ownership and it could not have been decreed in view of the fact that title of the Plaintiffs was under cloud and admittedly, the Plaintiffs are not in possession of the suit property. He fairly admitted that this argument is not raised before the Appellate Court, however, it is insisted that the same is important legal aspect. Reliance is placed on the Judgment of **Anil Digamber Dhumal Vs. Sunil S/o Digambar Dhumar and Ors. [2019 (2) Mh.L.J.292]** in support of this submission.

4. Learned Counsel for the Appellants further submits that execution is being pressed by the Respondents/Plaintiffs in Regular Darkhast Nos. 37 of 2023 and 36 of 2023 for recovery of possession from Appellants and next date of hearing is 19.06.2025. He therefore prays for ad-interim protection.

5. Perused the plaint and written statement.

6. Issue notice to the Respondents, returnable on 15.07.2025. In addition to the Court's notice, private notice is permitted.

7. Till next date, further proceedings in Darkhast Nos. 37 of 2023 and 36 of 2023 is stayed.

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

(M.M. SATHAYE, J.)