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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 5 OF 2025
WITH
INTERIM APPLICATION NO. 58 OF 2025**

Ms. Charulata Suryakant Vedak and Others ... Appellants

Vs.

Ms. Meghana Nishit ... Respondents

Murdeswar and Another

Mr. Ashish Dubey a/w. Ms. Priya Jadhav for the Appellants.

CORAM : GAURI GODSE, J.

DATE : 7th FEBRUARY 2025

ORDER :

1. Heard learned counsel for the appellants. This appeal is preferred by the original defendant nos. 1 to 3 to challenge the interim injunction granted in a suit filed by respondent no.1. By the impugned order the appellants are restrained from creating any third party rights in respect of the suit property. The impugned order further restrains the developer to hand over possession of the suit property only to the appellants. The injunction further restrains the developer to pay compensation for temporary accommodation only to the appellants. The injunction is granted on the ground that the plaintiff alongwith the present appellants has a share in the suit

property which was originally owned by their father.

2. Learned counsel for the appellant submits that in the year 1992 by way of family arrangement the plaintiff had relinquished her rights in favour of the mother. He further submits that by way of a gift deed mother had transferred the suit property in favour of defendant nos. 1 and 2. He therefore submits that in view of the relinquishment and in view of the gift deed the plaintiff would not have any right in respect of the suit property.

3. Learned counsel for the appellants further submits that the plaintiff is a married sister and is residing elsewhere and hence the impugned order will prejudicially affect the rights of the appellants.

4. I have perused the papers of the appeal. There is no dispute that flat is originally owned by the father of the parties. The subject matter of the dispute is redevelopment of the building where the parties would be entitled to a flat in view of the original holding. The relinquishment document relied upon by the learned counsel for the appellants is an unregistered document executed in favour of the mother. Though there is a gift deed executed by the mother, she had no exclusive right to transfer the entire suit property in the name of appellant nos. 1 and 2. At the most the gift deed if found to be valid would only bind the mother's share. Since it is not in dispute

that the original holder of the property was father of the appellants and the plaintiff, prima facie she would be entitled to a share in the property. On the ground of an unregistered document, the plaintiff cannot be denied her share.

5. By the impugned order the appellants are restrained from creating third party interest. This injunction would not cause any prejudice to the appellants. The second part of the injunction is restraining the developer from handing over possession exclusively to the appellants and further restraining the developer from exclusively paying compensation to the appellants. Interpretation of the injunction only means that the appellants alone would not be entitled to the benefits of redevelopment of the property and all the heirs of the original owner would be entitled to the benefits.

6. The meaning of the restraining order would not disentitle the appellants from receiving compensation for temporary accommodation or the redeveloped property. The directions issued in the impugned order are equitable which amounts to taking care of the rights of all the parties. The reasons recorded in the impugned order satisfies the parameters of the principles for exercising discretionary power under Order XXIX Rule 1 of the Civil Procedure Code. The appeal is devoid of any merits.

7. Hence, appeal is dismissed.
8. In view of the dismissal of the appeal, interim application is disposed of as infructuous.

[GAURI GODSE, J.]