

Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 7797 OF 2024
IN
FIRST APPEAL (STAMP) NO. 10220 OF 2024

Pushpa Bhadrakumar Savjani & Anr.	...Applicants
In the matter between	
Pushpa Bhadrakumar Savjani & Anr.	...Appellants/org.Defendants
Vs.	
Laju R. Mansharamani	...Respondent/org.Plaintiff

Mr. Gautam Ankhad, Senior Advocate with Ms. Kausar Banatwala and Ms. Samriddhi Lodha i/b. Ms. Nevty Thakkar for the Appellants.
Mr. Sharan Jagtiani, Senior Advocate with Ms. Surabhi Agrawal, Mr. Mutahharm Khan, Mr. Raghav Gupta, Ms. Treesa Benny and Ms. Rashi Savla i/b. Wadia Ghandy & Co. for Respondent.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.
DATE: 13 MARCH 2025.

P.C.

1. By this interim application, the applicants/org. Defendants have prayed for stay of the execution of the impugned judgment and order dated 23 June 2022 passed by the Joint Civil Judge, Senior Division, Panel in Special Civil Suit No. 563 of 2007.

2. We have heard learned senior counsel for the parties.

3. Mr. Jagtiani, learned senior counsel for the respondent/plaintiff, on instructions, states that pending the final disposal of the present appeal, the respondent shall not proceed with the execution application as filed on

behalf of the respondent/plaintiff. We accept the statement as made on behalf of the respondent.

4. During the course of hearing of this application, our attention is also drawn to the fact that the suit property is a large vacant piece of land admeasuring about 17 acres, which has now been ordered to be conveyed in favour of the respondent/ plaintiff under the orders subject matter of the appeal. It appears from the materials as placed on record that quarrying activities are being undertaken on the suit land, also quarrying machineries are parked on the suit property as seen from the reply affidavit filed by the respondent to the interim application. Admittedly, possession of the land is with the appellants/defendants. However, as on date, Mr. Jagtiani's concern, and more particularly in view of the judgment and decree of the Trial Court in favour of the respondent/plaintiff, is that the land needs to be protected as it has no fencing, and there is a likelihood of activities of quarrying, which admittedly appears to be illegal as neither permission has been granted by the appellants/ defendants to undertake any quarrying activities, nor any licence has been granted by any State authorities. The land is also required to be protected from encroachment.

5. In this view of the matter, we are of the opinion that urgent steps are required to be taken to protect the suit land. We are hence inclined to pass an order that fencing of the land be undertaken. Hence, the following

order:-

ORDER

- i. The appellants/defendants are directed to fence the suit land, which shall, however, be subject to the orders that would be passed on this appeal and without prejudice to the rights and contentions of the parties.
 - ii. Also, the appellants/defendants being directed to fence the suit land would not in any manner whatsoever create any equities in favour of the appellants/defendants. It is clarified that fencing to be installed is ordered only to safeguard the suit property, subject matter of the present appeal and the decree as passed by the learned trial judge in the suit in question.
 - iii. Let appropriate steps to install the fencing to the entire land be undertaken within a period of six weeks from today, and the proof of completion of the fencing be placed on record by an affidavit along with appropriate photographs.
 - iv. Insofar as the respondent/original plaintiff is concerned, in the event any need so arises, she is at liberty to move an interim application for such appropriate reliefs in regard to the suit land.
 - v. In the event the appellants/defendants intend to create any third party rights in any manner whatsoever in respect of the suit land, they are free to file an interim application, on which after hearing the parties, the Court shall pass appropriate orders.
6. At this stage, Mr. Ankhad, learned senior counsel for the appellants/defendants, has drawn our attention to prayer clause (b) of the interim application, which seeks a stay of the operation and the effect of the

judgment and decree. Considering the fact that already a statement is made on behalf of the respondent/plaintiff that the respondent would not proceed in the execution, we are of the opinion that a specific order on prayer clause (b) is not required to be passed.

7. Interim application is disposed of in terms of the aforesaid order. No costs.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)