Priyanka

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.519 OF 2024
WITH
INTERIM APPLICATION NO.10372 OF 2024

Pinninti Sreeram Sathya Reddy
Alias P.S. Sathya Reddya & Ors. ... Appellants
V/s.
Mr. Sunil Eknath Talwalkar & Ors. ... Respondents

Mr. Hemen Thakkar for the Appellants.
Mr. S.R. Nargolkar for Respondent No.2
Mr. Sanjya Kshirsagar for Respondent Nos. 1, 3 & 4.

CORAM : KAMAL KHATA, J.

DATED : 19TH DECEMBER 2025.

P.C. :

1. Having heard the Advocate for the Appellant and having perused the documents, the Advocate for the Appellant contends that the cause of action in the earlier suit and the present suit is different and, therefore, the Trial Court erred in refusing the interim relief sought. The learned Advocate relied upon the decision of the Supreme Court in the case of *Rathnavathi and anr. vs Kavita Ganashamdas*[1] in support of this contention.

2. In response, the Respondents' Advocates submit that the

1 2015 (5) SCC 223

Appellant failed to obtain leave under Order II Rule 2 of the Code of Civil Procedure, 1908, and had unconditionally withdrawn the earlier suit. Attention was drawn to the Order dated 8th April 2024 in that regard. The Advocate for the Appellant has no answer to this contention of the Respondents' Advocates. He submits that the cause of actions were different without demonstrating how and why these could not be raised in the earlier suit filed and unconditionally withdrawn. In this regard, the law laid down by the Supreme Court in *Gurbux Singh v. Bhooralal*[2], squarely applies, wherein it has been held that where a plaintiff omits to include the whole of the claim arising from the same cause of action without obtaining leave under Order II Rule 2, a subsequent suit in respect thereof is barred.

3. I find that the Appellants have filed this suit as a speculative gamble and has dragged the Respondents into unnecessary litigation. This is done solely with a view to exert pressure for monetary gain. The Appellant invested money and purchased an undivided share in the property with full knowledge that the other shareholders may not be willing to sell their shares and the outcome may, therefore, not be in his favour. In *Vidur Impex and Traders Pvt. Ltd. v. Tosh Apartments Pvt. Ltd.*[3], the Supreme

2 AIR 1964 SC 1810

3 (2012) 8 SCC 384,

Court has held that a purchaser who enters into a transaction with full knowledge of attendant risks or disputes cannot later seek equitable relief from the Court. I draw this conclusion because, during the arguments, the Appellant's Advocate submitted that the Respondents could return the money paid by the Appellant to the party who sold their rights to him. The present suit is thus nothing but a pressure tactic employed against the Respondents to compel them either to sell their shares or to buy out the Appellant. Courts cannot be used as instruments for extracting money or for creating nuisance to coerce parties into transferring property. The Supreme Court in *K.K. Modi v. K.N. Modi*[4], has held that proceedings instituted with an ulterior motive, including to harass the opposite party or to exert pressure, constitute an abuse of the process of the Court and are liable to be nipped in the bud.

4. The Advocate for the Appellant has no explanation for having unconditionally withdrawn the earlier suit, as recorded in the order dated 8th April 2024, which sought injunctive relief. He is unable to point out any reason as to why the entire claim could not have been included in the earlier suit which was unconditionally withdrawn.

5. I therefore, conclude that the Appellant has failed to make out any case for setting aside the Interim Order dated 24th April

4 (1998) 3 SCC 573

2024. Upon perusal of the said order, I find it to be well-reasoned and in consonance with law.

6. In *Wander Ltd. Vs. Antox India Pvt. Ltd.*[5], the Supreme Court has held that where the Trial Court has arrived at a conclusion based on the facts, material, and circumstances before it, and where there is no perversity in its findings, the Appellate Court ought not to interfere with such an Order.

7. The Supreme Court in *Mohd. Mehtab Khan v. Khushnuma Ibrahim Khan*[6], has reiterated that an appellate court ought not to interfere with a discretionary interim order unless the exercise of discretion is shown to be arbitrary, capricious, or perverse.

8. In view of the above, I find no reason to interfere with the impugned order or to allow this Appeal. In my view it amounts to an abuse of the process of law.

9. The Appeal is accordingly dismissed with costs of Rs.5,00,000/- incurred by the Respondents in being dragged into this frivolous litigation. The imposition of realistic and deterrent costs is fully justified in view of the law laid down by the Supreme Court in *Ramrameshwari Devi v. Nirmala Devi*[7], which mandates courts to curb frivolous and vexatious litigation by imposing actual and deterrent costs.

5 1990 Supp SCC 727
6 (2013) 9 SCC 221,
7 (2011) 8 SCC 249

10. The costs shall be paid within a period of two weeks from today to Respondent No.2. The Respondent No.2 shall give his account details to the Appellant on or before 22nd December 2025.

11. The Appellant sought stay on the Order for two weeks. For the reasons stated herein above, the same is rejected.

12. In view of the dismissal of the Appeal, Interim Application does not survive and same is accordingly disposed of.

(KAMAL KHATA, J.)