

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 379 OF 2025
WITH
INTERIM APPLICATION NO. 9281 OF 2025

Ashok Birmaram Patel & Anr.

.. Appellants

Versus

Kamladevi Mangilal Choudhary & Ors.

.. Respondents

.....

- Dr. Abhinav Chandrachud a/w Mr. Aditya Pimple, Mr. Darshan Patankar, Mr. Devendra Avhad & Ms. Isha Hajare i/by Pushkal Mishra, Advocates for Appellants
- Mr. Saurabh Butala, Advocate for Respondent No. 1

.....

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 30, 2025

P. C.:

1. Heard Dr. Chandrachud, learned Advocate for Appellants and Mr. Butala, learned Advocate for Respondent No. 1.

2. The Appeal from order challenges the order dated 19.06.2025 passed by the 7th Joint C.J.S.D., Thane in Spl. C.S No. 218 of 2025 rejecting Exh.5 temporary injunction application which proceeded on the footing that the Suit was filed on 09.05.2025 i.e. the date of physical presentation.

3. It is jointly submitted that the Suit under Section 6 of the Specific Relief Act, 1963 had been e-filed within six months of the alleged dispossession though physically presented thereafter. The

parties agreed to consider date of e-filing as the date of filing of the Suit as well as Exh.5 temporary injunction application.

4. Without entering upon the merits and by consent, the following order is passed:

- (a) The impugned order dated 19.06.2025 below Exh.5 temporary injunction application is set aside;
- (b) Exh.5 temporary injunction Application is restored to the file of the Trial Court for fresh consideration on its own merits and in accordance with law uninfluenced by the observations in the impugned order or in this order;
- (c) The Trial Court shall hear and decide Exh.5 temporary injunction application preferred by the Appellants and temporary injunction Application preferred by the Respondent No. 1 within six weeks from the date of this order;
- (d) All rights and contentions of all parties are expressly kept open. No equities are created in favour of either side by virtue of this consent order.

5. Parties shall appear before the Trial Court on 06.10.2025 at 11:00 a.m. No fresh notice is required. The Trial Court shall fix a date

for final hearing and disposal on the Exh. 5 temporary injunction Application by the Appellants in accordance with Clause 4(c).

6. The ad-interim relief granted in this Appeal shall continue till the hearing and disposal of Exh. 5 temporary injunction application by the Applicants in accordance with this order.

7. Needless to state that affidavit in reply to the temporary injunction Application filed by Respondent No. 1 reference to which is made in clause 4(c) herein above shall be filed within a period of two weeks by Petitioner before the Trial Court and copy thereof shall be served in advance to the learned Advocate for Respondent No. 1.

8. The aforesaid exercise including hearing of injunction Application is directed to be completed within a period of six weeks from today.

9. The Appeal from Order stands disposed of in the above terms. Interim Application(s), if any, stand disposed of.

10. No order as to costs.

11. The Trial Court shall act on an authenticated copy of this order.

Amberkar

[MILIND N. JADHAV, J.]