



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 69 OF 2026

Kapil Chandrakant Khaire And Another

...Appellants

Versus

Savita Arun Khaire and Others

...Respondents

*Mr. Surel Shah, Senior Advocate a/w Mr. Suyash Khose, Mr. Abhijit Aher, Mr. Mrugen Dhage, Mr. Siddharth Sutaria for Appellant.
Mr. Vivek Vijay Salunkhe for Respondent Nos. 5a to 5j and 6.
Mr. Vaibhav Ghogare, Mr. Sarvesh Gawade i/b Mr. Sandip Ghogare for Respondent No. 4.*

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 11th June, 2026

P. C. :

1. The present Appeal from order challenges the order dated 2nd January, 2025 passed by the Trial Court in application below Exhibit-5 rejecting the application seeking injunction.
2. Briefly stated the facts of the case are that the Plaintiff claims to be the owner of the property pursuant to the partition which has taken place amongst the family members. The subject property was sold in favor of Defendant No. 5 and injunction was sought from creating any third-party rights. The Trial Court has noted that the documents on record shows that the Plaintiffs were aware of reduction of area and encroachment was since long back and that the construction is going in respect of 14,900 sq. metres. The Trial Court noted that in view of the

said position, no injunction could be granted. It also recorded that Defendant Nos. 7 to 17 have filed pursis on record that if plaintiffs prove their encroached area, the Defendants will compensate as per the order of the Court.

3. Mr. Shah, learned Senior Advocate though would assail the order and would insist on injunction, perusal of the impugned order would indicate that the rights of the Plaintiffs stands sufficiently secured by the pursis filed by Defendant Nos. 7 to 17 that in event, the Plaintiff succeed in the suit, the Plaintiffs will be compensated by the Defendants as per the order of the Court. As the rights of the Plaintiff stands secured, there is no perversity which is demonstrated in the impugned order.

4. Mr. Shah would submit that there is an error in the Trial Court's order as it records that the pursis was filed by the Defendant Nos. 7 to 17 whereas the pursis was filed by Defendant Nos. 1 to 5 and rest of the Defendants are Government authorities.

5. Resultantly, Appeal from order stands disposed of in view of pursis filed before the Trial Court.

6. In light of the said submission, the order to be read accordingly.

7. Nothing survives for consideration in pending applications, if any, and the same stand disposed of.

[SHARMILA U. DESHMUKH, J.]