

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

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APPEAL FROM ORDER NO.909 OF 2005
AONGWITH
CIVIL APPLICATION NO.1062 OF 2005

Smt. Khatunbi Razak Patel & Ors.	.. Appellants
V/s.	
Mr. Rohan Prabhakar Bacchewar	.. Respondent

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Mr. R. R. Salvi for the appellant.
Mr. R. S. Apte with Mr. A. A. Garge for respondent No.1.
Mr. G. S. Hegde for respondent No.2.

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CORAM : A. S. OKA, J.

DATE : MARCH 31, 2011.

P.C.:-

I have heard the learned counsel appearing for the appellant and the learned counsel appearing for the second respondent. The learned counsel appearing for the first respondent states that he attempted to contact the first respondent on telephone but the contact could not be established. He seeks time. Appeal From Order is of the year 2005, and considering the controversy involved, time cannot be granted.

2. The present appellant is the first defendant and the first respondent is the original plaintiff. The second respondent is the original second defendant. By the impugned order, the trial Court granted temporary injunction restraining the appellant from creating third party interests in respect of the suit property till the disposal of the suit.

3. Alongwith this Appeal, Civil Application No.1062 of 2005 was taken out by the appellant. By speaking order dated 18th October, 2005, after hearing the learned counsel appearing for the first respondent, this Court granted relief in terms of prayer clause (b). Prayer clause (b) reads thus :

“(b) Pending the hearing and final disposal of the Appeal the temporary injunction granted by the learned Civil Judge (S.D.) Panvel, below Exhibit -5, in Special Civil Suit No.70 of 2005 on 22.07.2005 be vacated;”

4. Effect of the said order is that the impugned order dated 22nd July, 2005 stands vacated. Thus, the order of injunction which was granted by the trial Court is not in existence from 18th October, 2005.

5. Therefore, the only order which can be passed today is of confirming the order dated 18th October, 2005, passed by this Court.
6. Hence, I pass the following order :

:: O R D E R ::

- i. The order dated 18th October, 2005, passed in Civil Application No.1062 of 2005 will continue to operate till the disposal of the suit.
- ii. As a result of the aforesaid order, the impugned order stands set aside.
- iii. All contentions of the parties on merits of the suit, if pending, are kept open.
- iv. Civil Application No.1062 of 2005 does not survive and the same is disposed of.

JUDGE