

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO.1756 OF 2014**  
**IN**  
**(ORDER BELOW EX.172)**  
**IN**  
**SPECIAL CIVIL SUIT NO.651 OF 2004**

Chatur Tahilram Kripalani. ] ... Petitioner

Versus

Dr. Laxmikant R. Bhojwani & Ors. ] ... Respondents

Mr. Chatur Tahilram Kripalani, Petitioner in person, present.  
Ms. Meena H. Doshi for Respondents.

**CORAM :- M. S. SONAK, J.**  
**DATE :- MARCH 31, 2015**

**P. C. :-**

1. Rule.
2. Insofar as interim relief is concerned, there is no case made out for grant of a blanket say that the impugned order dated 18/11/2013 made by the 4<sup>th</sup> Joint Civil Judge, Senior Division, Pune, in Special Civil Suit No.651 of 2004. By the impugned order, the learned Civil Judge has stayed the proceedings in the suit until the disposal of First Appeal (Stamp) No.17308 of 2009.

3. The Petitioner has instituted the aforesaid First Appeal in this Court, which is admitted on 20/11/2009. The Appeal questions the probate granted in Miscellaneous Application No.335 of 2004 by the Civil Judge, Senior Division, Pune, in respect of the Will allegedly executed by Mrs.Lachmi G. Bhavnani. The Order dated 20/11/2009 grants the stay to such probate and further directs that the parties shall maintain status-quo in respect of the suit premises, pending Appeal. In the context of Special Civil Suit No.651 of 2004, this Court, in its Order dated 20/11/2009, also made an observation that in case the properties involved in that suit are not covered by the probate proceedings, the order of status-quo passed in the Appeal shall have no bearing on that suit or on the properties involved in that suit.

4. The Order impugned in the present petition makes reference to the Order dated 20/11/2009 in the aforesaid First Appeal. The impugned order, notes that the properties involved in the suit are the properties involved in the probate proceedings, from which the aforesaid First Appeal arises.

5. Mr. Chatur Kripalani, the Petitioner in person, submits that the order dated 20/11/2009 has not been interpreted correctly and in any case, it cannot be said that there is similarity between the properties involved in the suit and the properties involved in the probate proceedings. On the other hand, Ms.Meena Doshi, the learned Counsel for Respondent no.1, submits that the properties

involved in the two proceedings are the same and any interference with the impugned order, would amount to variation in the order dated 20/11/2009. Ms.Doshi submits that there is no infirmity in the impugned order and in any case there is no reason for the proceedings in Special Civil Suit no.651 of 2004 to proceed.

6. The issues of interpretation of the Order dated 20/11/2009 and ambit of the properties involved in the two proceedings can be gone into at the stage of final hearing in this petition. In the meanwhile, however, if all proceedings in Special Civil Suit No.651 of 2004 continue to remain stayed, then no useful purpose would be served. If ultimately, the contention of Mr.Kripalani is accepted, it will not be possible to recoup the time which has elapsed in the meanwhile the suit remain stayed. Therefore, it would be appropriate if Special Civil Suit No.651 of 2004 proceeds up to the stage of final arguments. No final Judgment and Decree need be passed without leave of this Court or without there being any further orders made in that regard.

7. Besides, if the Order dated 20/11/2009 in First Appeal (Stamp) No.17309 of 2008 is perused, then it does *prima facie* appear that the *status quo* order was made so that the properties in question are not dealt with by the parties, pending disposal of the Appeal. The *status quo* order, at least *prima facie*, was not intended to stall the proceedings in civil suit.

8. Accordingly, by way of interim relief, it is directed that proceedings in Special Civil Suit No.651 of 2004 may be proceeded with up to the stage of final arguments. However, the learned Civil Judge shall not hear the final arguments or make any Judgment and Decree in the suit, without leave of this Court or without there being any further orders made by this Court in the present petition. The parties shall have the liberty to apply in the aforesaid regard.

9. The observations in this interim order are only *prima facie* and the learned Civil Judge to proceed with the suit without being influenced by them.

**(M. S. SONAK, J.)**