

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

CIVIL APPLICATION NO.1002/2013
IN
SECOND APPEAL NO.415/2013

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. K. U. Nikam for the Applicant

CORAM : K. K. TATED, J.
DATE : OCTOBER 13, 2015

P.C.:

1. Heard. None for the Respondent though duly served.

2. This Application is made by the Plaintiff for an order of injunction restraining the Respondent Defendant from disturbing his possession in respect of the suit property i.e. land admeasuring 4Rs out of Sy.No.142/1 situated at District Sangli Sub Division, Tq. Miraj, Village Sangliwadi, till hearing and final disposal of the appeal.

3. There is one more prayer in the Civil Application that the Respondent Defendant be restrained from creating any third party right, title and interest in respect of the suit property.

4. The learned counsel for the Applicant submits that the Applicant, by an agreement for sale dated 16/04/1992 agreed to purchase the suit property for sum of Rs.44000/-. He submits that as the Respondent Defendant failed and neglected to complete the said transaction, the Plaintiff filed Regular Civil Suit No.759/2000 (Old Special Civil Suit No. 347/1998). He submits that the Trial Court dismissed the suit by decree dated 21/10/2008 and thereafter the Appellate Court also rejected the Regular Civil Appeal No.413/2008. He submits that before the Appellate Court the Plaintiff had made an Application below Exhibit- 7 wherein the Appellate Court, by an order dated 01/04/2009 restrained the Respondent from transferring the suit property till disposal of the appeal as per their say. The operative part of the said order reads thus:

ORDER

“(1) The application is allowed.

(2) The respondent is restrained from transferring the suit property till the disposal of the appeal as per her say.

(3) Parties to get expedited the hearing of the appeal. The appellant to get prepared the paper book privately and to file the same for expeditious hearing of the appeal as early as possible.”

5. The learned counsel for the Applicant submits that as on today, the Applicant Plaintiff is in possession of the suit property. He further submits that in the revenue record, the name of Respondent Defendant is shown. Hence, the Plaintiff has apprehension that the Respondent Defendant may create third party right, title and interest in respect of the suit property to defeat the Plaintiff's right during pendency of the Second Appeal. Hence, in the interest of justice, this Hon'ble Court be pleased to restrain the Respondent Defendant from creating any third party right, title and interest in respect of the suit property till hearing and final disposal of the appeal.

6. Considering the submissions made by the learned counsel for the Applicant and averments made in the Civil Application and order dated 01/04/2009 passed by the Adhoc District Judge, Sangli below Exhibit- 7 in Regular Civil Appeal No.413/2008, I am satisfied that the Applicant has made out a case for allowing the Civil Application.

7. Hence, following order is passed:

a. Pending hearing and final disposal of the Second Appeal, the Respondent Defendants are restrained by an order of injunction from disturbing the Plaintiff's possession over the suit property i.e. land admeasuring 4Rs out of Sy.No.142/1 situated at District Sangli Sub Division, Tq. Miraj, Village Sangliwadi

b. Pending hearing and final disposal of the Second Appeal, the Respondent Defendants are restrained by an order of injunction from creating any third party right, title and interest in respect of the suit property i.e. land admeasuring 4Rs out of Sy.No.142/1 situated at District Sangli Sub Division, Tq. Miraj, Village Sangliwadi.

c. Civil application stands disposed off accordingly.

JUDGE