

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

CIVIL APPLICATION NO.2153 OF 2013
IN
FIRST APPEAL NO.662 OF 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. Rajesh Parab for the Applicant

CORAM : K. K. TATED, J.
DATE : APRIL 29, 2015

P.C.:

1. Heard the learned counsel for the Applicant.
None for the Respondent though duly served.

2. The learned counsel for the Applicant is permitted to carry out appropriate amendment in prayer clause (a). Amendment to be carried out during the course of the day.

3. This Application is preferred by the Plaintiff for an order of injunction restraining the Respondent Defendant from creating any third party right, title and interest in respect of the suit property i.e. Room No.5, admeasuring 8' x 10' in Baburao Hari Karande Chawl at Kala Killa,

Dharavi, Mumbai – 400 017. The learned counsel for the Applicant submits that the Trial Court in paragraph 13 and 15 specifically recorded that even the Defendants have no right in the suit premises. He submits that if, during pendency of the First Appeal, the Respondent Defendant creates any third party right, title and interest in respect of the suit property nothing will survive in the present proceedings. He submits that in the interest of justice, this Hon'ble Court be pleased to restrain the Defendant by an order of injunction from creating any third party right, title and interest in respect of the suit property.

4. Heard the learned counsel for the Applicant. Neither the Respondent appeared in the matter though served, nor filed any reply to oppose the present Civil Application.

5. Considering the submissions made by the learned counsel for the Applicant, averments made in the Application and the reasons recorded by the Trial Court, I am of the view that if Respondent Defendant creates any third party right, title and interest in respect of the suit property during pendency of the present appeal, nothing will survive in the matter.

6. Hence, the following order:

a) Civil Application is allowed in terms of prayer clause (c) which read thus:

(c) That pending the hearing and final disposal of the appeal the Defendants/present Respondents, their agents, servant and/or any person claiming through them be kindly restrained by an order of injunction and/or order in the nature of injunction restraining them from alienating, transferring and/or creating third party interest in the suit premises i.e. Room No.5, admeasuring 8' x 10' in Baburao Hari Karande Chawl at Kala Killa, Dharavi, Mumbai – 400 017.

b. Civil application stands disposed off accordingly.

JUDGE