

Sequeira

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

***CIVIL REVISION APPLICATION NO. 199 OF 2015.***

Karuna Shankar Ramshankar Mishra.

.. Applicant

Vs.

Mr.Anandji Padamshi Shah & anr.

.. Respondents

Mr.Ram Apte, Senior advocate i/b Mr.Rakesh Agrawal, for the Applicant.

Mr.S.S.Shah, Senior advocate a/w Mr.Banrji i/b M/s Zohair & Co., for Respondent No.1.

Mr.M.A.Ansari, for Respondent No.2.

***CORAM: N.M.Jamdar, J.  
Monday 27 April, 2015***

**PC :**

The learned Senior advocate on instruction states that in view of the findings rendered by the Appellate Bench of Small Causes Court, Mumbai that the grant of injunction by the Small Causes Court was not under any provisions of law and the proceedings were not maintainable and that the appropriate remedy for the Applicant is to file a substantive suit, the Applicant will withdraw the present Revision Application as the Applicant is desirous of filing a suit. The Revision Application is accordingly rejected as withdrawn.

2 It will be open to the Applicant to file a suit, as may be advised, which will be considered on its own merits. Considering the fact that the Appellate Bench has allowed the appeal on the

legal position about the powers of the trial Court to grant injunction, any observations made on merits by the Appellate Bench as well as the Small Causes Court as regards grant of injunction is concerned, will not come in the way of either of the parties while deciding the Suit that is proposed to be filed.

3 The learned counsel for the Applicant states that there was a protective order during the pendency of the appeal which should be continued. The learned counsel for the Respondents opposes. Considering the fact that there is no protective order in favour of Applicants since 30 March 2015 and yet the Respondents have not taken any coercive action, I do not feel that apprehension that the Respondents will immediately take coercive action without giving even a week's time to the Applicant to file a suit, is warranted. All the material documents are ready with the Applicant and the Applicant can always file a suit within a week.

4 Civil Revision Application is accordingly rejected as withdrawn, with the above clarifications.

*(N.M.Jamdar, J.)*