

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.295 OF 2015
WITH
CIVIL APPLICATION NO.525 OF 2015

Navabulla Garibulla Pathan ... Appellant
Vs.
Uran Nagarpalika Parishad through its
Chief Executive Officer ... Respondent

Mr. Uday P. Warunjikar i/b. Mr. Sachin K. Hande for Appellant.
Mr. Sachindra B. Shetye for Respondent.

CORAM : R. G. KETKAR, J.
DATE : MAY 07, 2015

P.C. :

Heard Mr. Warunjikar, learned Counsel for appellant and Mr. Shetye, learned Counsel for respondent at length.

2. By this Appeal under Section 100 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'), the original plaintiff has challenged the judgment and decree dated 27.04.2007 passed by the learned Civil Judge, Junior Division, Uran in Regular Civil Suit No.52 of 2002 as also the judgment and decree dated 12.02.2008 passed by the learned District Judge-1, Raigad, Alibaug in Civil Appeal No.134 of 2007.

3. After arguing the Appeal for quite some time, Mr. Warunjikar, upon taking instructions from Mr. Niyaz Navabulla Pathan, son of appellant, prays for withdrawal of this Appeal. He submitted that appellant has instituted substantive Suit against Landlord Rajan Narayan Chalke, since deceased, through legal representatives and respondent for declaration of ownership by way of adverse possession as also for perpetual injunction restraining defendants therein from causing

obstruction to his possession. During the pendency of the Suit, application for temporary injunction was taken out. That was rejected. Aggrieved by that decision, appellant has instituted Miscellaneous Civil Appeal No.11 of 2014 before the District Court and the same is pending. He submits that the ad-interim order dated 16.03.2015 passed by the Division Bench of this Court (Coram: Mr. A. S. Oka and A. P. Bhangale, JJ.) in Writ Petition No.2688 of 2015 may be continued upto and inclusive of 30.06.2015 so as to enable the appellant to obtain appropriate orders in the pending Appeal. He assures that appellant will not ask for further extension. Assurance of Mr. Warunjikar is recorded.

4. In view thereof, on the motion made by Mr. Warunjikar, Second Appeal is allowed to be withdrawn and is dismissed as withdrawn. In view of the disposal of the Second Appeal, nothing survives in Civil Application No.525 of 2015 and the same is disposed of as such. It is expressly made clear that no application for further extension shall be entertained.

5. Notwithstanding disposal of the Second Appeal, ad-interim order dated 16.03.2015 passed by the Division Bench of this Court (Coram: A. S. Oka and A. P. Bhangale, JJ.) shall remain in force upto and inclusive of 30.06.2015. The learned District Judge seized of the Miscellaneous Civil Appeal No.11 of 2014 will decide the Appeal on its own merits and pass appropriate order without being influenced by continuation of the ad-interim order by this Court. Parties are at liberty to produce authenticated copy of this order before the District Court.

(R. G. KETKAR, J.)