

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 336 OF 2015

Dr. Parasuram Ramamoorthy .. Applicant
vs.
Vishwanath V. Gondhalekar and anr. .. Respondents

Mr. Sameer M. Tendulkar for the Applicant.
Ms Sumedha Rao for the Respondents.

CORAM : M. S. SONAK, J.
DATE : 1 JULY 2015.

P.C. :-

1] This revision application challenges the order dated 26 February 2015 made by the Appellate Bench of the Small Causes Court rejecting the applicant's application urging action against the respondents for having breach the order injunction made on 3 January 2013 and further praying that the defence of the respondents be struck off by exercising powers under Order 39 Rule 11 of Code of Civil Procedure, 1908 (CPC).

2] The learned counsel for the applicant has submitted that the injunction order dated 3 January 2013 clearly restrained the respondents from creating third party interest in the suit premises and interfering with the possession, occupation and use and enjoyment of the applicant in respect of the suit premises. Despite such widely worded restraint order, the respondents on 17 June

2014 pasted a notice dated 7 June 2014 upon the suit premises purporting to notify the applicant's patience that the hospital is being closed down in pursuance of letter dated 4 June 2014 from the Public Health Department of the Municipal Corporation of Greater Mumbai. The text of this notice has been transcribed in paragraph 11 of the impugned order. The learned counsel for the applicant submits that the very pasting of such notice and consequences ensuing therefrom constitutes interference with the use and enjoyment of the applicant in respect of the suit premises.

3] After having considered the submissions of the learned counsel for the parties and perused the record, in my judgment, there is no reason to interfere with the impugned order. The Appellate Bench, upon consideration of the material on record, has taken the view that the respondents herein, upon being served with notice by the Municipal Authorities, by way of abundant caution pasted intimation in that regard upon the suit premises. The learned counsel for the applicant contends that in terms of the law as applicable, notice issued by the Municipal Authorities does not become operative for a period of at least one month from the date of its issue and where the appeal is pending, until disposal or

withdrawal of the appeal. This may be the position, however, the issue is whether the circumstance of pasting of notice constitutes any deliberate and intentional breach or disobedience of the injunction order. In my judgment, the Appellate Bench has taken an appropriate view, that it does not.

4] Accordingly, there is no reason to interfere with the view taken by the Appellate Bench. The impugned order is neither vitiated by any jurisdictional error nor can it be said that in making the impugned order, the Small Causes Court has acted with illegality or material irregularity.

5] Accordingly, the Revision Application is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)

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