

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2235 OF 2015
IN
FIRST APPEAL NO.679 OF 2015

Saina Banu w/o. Haroon Shaikh

... Applicant

Vs.

Mehmooda wd/o. Nabi Ahmed Shaikh & Ors.

... Respondents

Mr.Akshay Rokade i/b Y.R. Shah for the Applicant
Mr.A.R. Mishra for Respondent Nos.2 and 4

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 9th OCTOBER, 2015

P.C.:

1. Pursuant to the judgment and order dated 4.4.2015, passed by the City Civil Court, Dindoshi, in Suit No.3039 of 2003, the possession of the suit premises was handed over by the Court Receiver to Defendant No.4 and at present defendant No.4 is in possession of the suit premises. Now, the application is made that execution and implementation of the impugned judgment be stayed. Then, prayer (b) is made that the appointment of Court Receiver which was ordered earlier by the trial Court on 22.1.2008 to continue. Thirdly, prayer clause (c) is that pending hearing and final disposal of the appeal, Respondent No.4 be restrained from dealing with and disposing of and creating any encumbrance in any

manner and/or part with possession, creating third party rights in the suit property. It is pointed out that the Court Receiver has already handed over possession in May, 2015 to defendant No.4 and he is in formal possession of the suit premises since then. By order dated 31.7.2015, this Court has observed that as the Court Receiver is discharged and has handed over formal possession in favour of respondent No.4, hence, no orders were passed in the Civil Application No.2053 of 2015 and it was disposed of.

2. In this application No.2235 of 2015, similar prayers are made and therefore, these prayers (a) and (b) cannot be granted. In fact, such prayers should not have been made in this application by the applicant. However, prayer (c) is granted. Accordingly, Respondent No.4 shall not create any third party rights or dispose of the suit premises in any manner, without permission of this Court, pending appeal.

3. Civil Application stands disposed of accordingly.

(MRIDULA BHATKAR, J.)