

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

APPEAL FROM ORDER NO.634 OF 2006
WITH
CIVIL APPLICATION NO.734 OF 2010

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. Girishkumar Pandya for the Appellant
None for the Respondent.

CORAM : K. K. TATED, J.
DATE : MARCH 19, 2015

P.C.:

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

2. The Plaintiff preferred this appeal challenging the order dated 14/08/2006 passed by the Bombay City Civil Court, Mumbai holding that Trial Court has no pecuniary jurisdiction to try and decide the Short Cause Suit No.520/2006 filed by the Appellant Plaintiff.

3. In the present proceedings, the Plaintiff filed Short Cause Suit No. 520/2006 for declaration that the agreement for development and power of attorney dated 19/04/2005 executed by the

Defendant in favour of the Plaintiff was subsisting and valid and binding on the Defendant till extended period. Following are the prayer clauses in the said suit:

(a) That this Hon'ble Court be pleased to declare that the Agreement for Development and Power of Attorney dated 19th April 2005 executed by the Defendant in favour of the Plaintiffs is subsisting and valid and binding on the Defendant till the extended period for 9 months i.e. 19th January 2007.

(b) That pending the hearing and final disposal of the suit the Defendant, her servants, agents, family members or any person or persons claiming through the Defendant be restrained by an order of permanent injunction from preventing the Plaintiffs from developing the suit property i.e. the property admeasuring about 174 sq. mtrs. lying being and situated at City Survey No.6085 together with the house standing thereon consisting of ground and first floor, assessed by the Municipal Corporation of Greater Mumbai under H-East Ward No.H-7456 76, situate at City Survey/Revenue Village Kolkalyan, Tq. Andheri, Mumbai Suburban District, Kalina Village, Santacruz (E), Mumbai – 400 029 as per the condition No.22 of the agreement dated 19th April 2005.

(c) Pending the hearing and final disposal of the suit the Defendant and/or her family members be restrained by an order and injunction of this Hon'ble Court from delaing in the matter of the suit property i.e. the property admeasuring about 174 sq. mtrs. lying being and situated at City Survey

No.6085 together with the house standing thereon consisting of ground and first floor, assessed by the Municipal Corporation of Greater Mumbai under H-East Ward No.H-7456 76, situate at City Survey/Revenue Village Kolekalyan, Tq. Andheri, Mumbai Suburban District, Kalina Village, Santacruz (E), Mumbai – 400 029 with any third party or person:

(d) Interim and ad-interim reliefs in terms of prayers (b) and (c) above

(e)

(f)

4. The Bombay City Civil Court, Mumbai, in paragraph 8 of the impugned order dated 14/08/2006 held that it has no pecuniary jurisdiction to entertain the said suit because the consideration amount in the said agreement was more than Rs.50,000/-. Hence, the Bombay City Civil Court, Mumbai returned the plaint to the Plaintiff for presentation in proper court as per Order VII Rule 10 of the Code of Civil Procedure, 1908.

5. In view of the subsequent development that the pecuniary jurisdiction of the Trial Court is enhanced, impugned order dated 14/08/2006 requires to be set aside.

6. Hence, the following order:
- a) Appeal from Order is partly allowed.
 - b) Impugned order dated 14/08/2006 is set aside.
 - c) The Trial Court is directed to register Short Cause Suit No.520/2006 and decide the same according to law.
 - d) Appellant to pay the court fees, if any, according to law.
 - e) With these directions, the Appeal from Order stands disposed off.
 - f) In view thereof, Civil Application, if any, does not survive. Same stands dismissed as infructuous.
 - g) Liberty granted to the Appellant - Plaintiff to move for interim relief or ad-interim relief before the Trial Court, which will be decided on its own merits.

JUDGE