

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****APPEAL FROM ORDER NO. 864 OF 2014****IN****NOTICE OF MOTION NO. 1307 OF 2012****IN****LONG CAUSE SUIT NO. 780 OF 2012****ALONGWITH****CIVIL APPLICATION NO.1039 OF 2014****IN****APPEAL FROM ORDER NO. 864 OF 2014****IN****NOTICE OF MOTION NO. 1307 OF 2012****IN****LONG CAUSE SUIT NO. 780 OF 2012****Subhash Nagar Mitra Mandal & Ors.****..... Appellants****VERSUS****Manoj Kashinath Sitapure & Ors.****..... Respondents**

Ms.Sukeshi Bhandari for the Appellants.

None for the Respondents.

CORAM : R.D. DHANUKA, J.**DATED : 24th NOVEMBER, 2015****P.C.**

None appeared for the respondents though served. By this appeal from order, the appellants have impugned the order dated 25th July, 2014 passed by the learned City Civil Judge Dindoshi allowing the Notice of Motion No.1307 of 2012 in terms of prayer clause (a) of the notice of motion. The plaintiffs had prayed for an order and injunction against the defendant no.1 (appellants herein) from restraining the plaintiff to participate in the business of trust and/or disturbing the rights of the plaintiffs.

2. This court while granting ad-interim order dated 27th August, 2014 has observed that if the interim protection is not granted, the appeal will become infructuous. The interim order dated 25th July, 2014 is already stayed by this court and the said order is in force even today.

3. Learned counsel appearing for the appellants submits that the matter was on board today before the learned trial court for filing affidavit of evidence of the original plaintiffs. Issues are already framed by the trial court.

4. A perusal of the reliefs claimed in the plaint and the reliefs granted by the learned trial judge in terms of the notice of motion would indicate that both the reliefs are identical. In my view the learned trial Judge while allowing notice of motion in terms of prayer (a) has virtually decreed the suit.

5. Be that as it may, since the suit is ready for trial, it would be appropriate if ad-interim order passed by this court on 27th August, 2014 is continued till the disposal of the suit and it is ordered accordingly.

6. Trial court is directed to dispose of the suit within two years from the date of parties filing copy of this order.

7. Both the parties are directed to co-operate with each other and with the learned trial judge in expeditious disposal of the suit. During the pendency of the suit, there shall be stay of the impugned order passed by the learned trial judge passed on 25th July, 2014. It is made clear that the observations made by the learned trial judge in the impugned order are prima facie and tentative. The learned trial judge shall decide the matter in accordance with law and without being influenced by the observations and conclusion made by the learned trial

judge in the order dated 25th July, 2014. Appeal is disposed of in the aforesaid terms. No order as to costs. In view of the disposal of the appeal from order, civil application does not survive and is accordingly disposed of.

[R.D. DHANUKA, J.]