

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9008 OF 2015

Satra Properties (India) Limited	...	Petitioner
vs.		
Mr. Naresh Sevantilal Vora	...	Respondent

Mr. Karl Tamboli i/b. Bharat K. Gala for the petitioner.
Mr. P.S. Dani, Sr. Counsel and Ms. Jui Nerurkar for the respondent

CORAM : M.S. SONAK, J.
DATE : 9th SEPTEMBER, 2015.

P.C.:

1. This petition seeks to challenge an order by which the revisional authority has declined to stay the proceedings in RAD Suit No. 728 of 2014 pending before the Small Causes Court at Mumbai.
2. The order declining the stay has not been produced. However, the learned counsel for the parties admit that main revision application itself is posted for final hearing today, i.e., 09/09/2015.
3. The learned counsel for the petitioner express apprehensions that the Small Causes Court may proceed to decide the application at Exhibit-9 and Exhibit-27 taken out by the Respondent-Plaintiff before the trial Court. The application at Exhibit-9 seeks mandatory injunction to permit the respondent to erect a permanent shed and the application at Exhibit-27 seeks permission to erect a

temporary shed so as to protect the goods lying open in the suit premises.

4. This Court by its order dated 23/06/2015 has made following order, by the consent of parties, as conveyed by their respective counsels.

- (a) The interim order dated 5 March 2015 made by the Small Causes Court, Mumbai and interim order dated 9 May 2015 made by the Appellate Bench of the Small Causes Court at Mumbai are set aside;*
- (b) The Appeal No. 39 of 2015 pending before the Appellate Bench is consequently disposed of.*
- (c) The Small Causes Court at Mumbai to dispose of Application at Exhibit-13 filed on 24 December 2014 by the petitioner, within a period of one month from today, on its own merits and in accordance with law.;*
- (d) Depending upon the decision of the Small Causes Court upon such application at Exhibit-13, the Small Causes Court to dispose of the application for interim relief (Exhibit-9) made by the Respondent, within a period of two months thereafter. Again, such disposal shall be in accordance with law and on its own merits;*
- (e) Parties shall remain status quo until disposal of application at Exhibit-13 and if same is allowed, then application at Exhibit-9, as aforesaid.*
- (f) The status quo as directed shall, however, not come in the way of the Small Causes Court at Mumbai issuing appropriate directions for the protection of goods at the site.*

5. In terms of the direction of this Court the application at Exhibit-13 filed by the petitioner questioning the jurisdiction of the trial Court was disposed of on 22/07/015. It is against the said order that the petitioner has preferred the Revision Application, which is posted for

final hearing today i.e. 09/09/2015.

6. In the order dated 23/06/2015, which was an order made on the basis of consent of the parties, time schedule as well as the manner in which the various pending applications are to be disposed of, came to set out.

7. In the aforesaid circumstance there is no reason to entertain the present petition, at this stage. The order dated 23/06/2015 was not intended to be a lever to enable either parties to keep on approaching this Court at interlocutory stages. There is no question of any prejudice as such if the applications at Exhibit-9 or Exhibit-27 are decided by the trial Court in accordance with law and on their own merits. If, ultimately the decision is adverse to the petitioner, the petitioner has its remedy against such orders. However, this is not a case where the trial Court should be preempted or even taking up such application for consideration. The supervisory jurisdiction under Article 227 of the Constitution of India is not meant for such purposes.

8. Learned counsel for the petitioner places reliance upon the decision of Division Bench of this Court in the case of Royal Palms (India) Pvt. Ltd. & Ors. Versus Bharat Shantilal Shah & Ors. 2009(2) Bom. C.R. 622, to contend that the trial Court is required to take up objection raised to its jurisdiction to entertain the suit for consideration

at the earliest and decide the objections finally. In this case, the trial Court disposed of the petitioners application at exhibit 13 objection to the jurisdiction on 22/07/2015. Whether this decision is right or not is the matter which will be decided by revisional Court. However, it cannot be said, at least prima facie that the trial court is proceeding to decide the interim application without disposing of the objection as to jurisdiction. Accordingly, there is no case made out to interfere.

9. This petition is dismissed. However it is made clear that this Court has not examined the merits and rival contentions of the parties. Accordingly, it is for the trial Court as well as the appeal Court to decide the matters pending before them on their own merits.

10. All concerned to act on the basis of authenticated copy of this order.

(M.S. SONAK, J.)

CERTIFICATE

“Certified to be true and correct copy of original
signed Judgment/Order.”