

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10734 OF 2014

Shri Vivek Chandrakant Tharwal.] ... Petitioner

Versus

Smt. Mangala Chandrakant Tharwal and Anr.] ... Respondents

Mr. P. R. Thatte for Petitioner.

CORAM :- M. S. SONAK, J.
DATE :- SEPTEMBER 07, 2015

P. C. :-

1. The Petitioner-Defendant No.1 before the Appeal Court, challenges order dated 26/08/2014 by which the Division Bench of the Small Causes Court has restrained him from parting with possession of the suit premises or creating any third party rights therein during the pendency and final disposal of the R.A.D. & E. Suit No.1053/1697 of 2011.

2. Since the aforesaid is only an interim order and that too a routine order of restraining the party in possession from creating any third party rights or parting with possession, there is really no need to entertain the present petition. However, the learned Counsel for Petitioner expresses apprehension that certain observations or findings

in the impugned order might prejudice the interest of the Defendant No.1, at the stage of final disposal of the suit. Such apprehension, may not be proper because it is the settled position in law that the prima-facie observations or findings recorded at the interim stage are not to be taken into consideration whilst deciding the suit finally on the basis of the evidence which the parties will lead on record. In any case, it is clarified that the Trial Court should not permit itself to be influenced by any observations made in the impugned order at the stage of finally disposing of the suit in accordance with law and on its own merits.

3. With the aforesaid observations, this petition is disposed of.

4. The Petitioner shall be at liberty to apply for expeditious disposal of the suit before the Trial Court. Such application, if made, to be considered by the Trial Court on its own merits.

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

(M. S. SONAK, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Order.