

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1429 OF 2012

IN

FIRST APPEAL NO.670 OF 2013

Pannalal Ambalal Vyas and Another	...Applicants
vs.	
Vijay @ Rajendra Ambalal Vyas	...Respondent

Mr. C.G. Gavnekar a/w. Mr. S. Deokar, for the Applicants.
None for the Respondents.

CORAM : K.K.TATED, J.

4TH MARCH 2015

PC.:

. Heard learned counsel for the applicants. None for the respondents though duly served.

2] This application preferred by the plaintiffs for stay of the operation and implementation of the impugned judgment and decree dated 30-07-2011 passed by the Bombay City Civil Court at Dindoshi in Suit No. 1481 of 2002.

3] The learned counsel for the applicants submits that during pendency of the Suit, the original defendant preferred Appeal from

Order No. 1023 of 2003 challenging the order dated 04-11-2003 passed by the trial Court in Notice of Motion No. 1323 of 2002. In that order, this Court passed an order dated 16-03-2004. Para 3 of the said order reads thus:

Para 3 : *“The Registrar of this Court is requested to appoint an officer of this Court as Commissioner to divide the suit premises equally. This shall be done horizontally and not vertically. The appellant shall be entitled to occupy the upper portion and the lower portion shall be occupied by the respondent. The appellant shall be entitled to provide a door for the purpose of access to the store room. The sketch is at page No.31”.*

4] He submits that the same arrangement to be continued till the hearing of the final disposal of the First Appeal.

5] Considering the submissions made by the learned counsel for the Applicants and the averments made in the Application and the earlier order passed in Notice of Motion No. 1323 of 2002 dated 16-03-2004, I am satisfied that the Applicants has made out a case for allowing the present Civil Application. Hence, the following order:

a) Civil Application is allowed in terms of prayer clause (b) which read thus:

“(b) Pending the hearing and final disposal of the above said Appeal in this Hon'ble Court, your Lordship be pleased

to direct the parties to maintain the possession of the Suit Premises as was directed by the Bombay City Civil Court in its order dated 04-11-2003 passed in Notice of Motion No. 1323 of 2002 and modified by this Hon'ble Court by its Order dated 160-03-2004 in Appeal From Order No. 1023 of 2003.”

6] Civil Application stands disposed of accordingly.

(K.K. TATED, J.)