

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**APPEAL FROM ORDER NO. 1098 OF 2014
WITH
CIVIL APPLICATION NO. 1327 OF 2014**

Abdul Hamid, since deceased through heirs
1A, Mrs. Sadrunnisa wd/o Abdul Hamid & Ors. ... Appellants
V/s.
Union of India & Ors. ... Respondents

Mr. Rakesh Dave for the appellants.
Mr. S.R. Rajguru for the respondents.

**CORAM : K. K. TATED, J.
DATED : 30/06/2015.**

P.C.:

. Heard learned Counsel for the parties.

2 Affidavit-in-reply filed by the respondent is taken on record.

3 This Appeal from Order is preferred by plaintiff challenging the order dated 26.09.2014 passed by Bombay City Civil Court at Bombay in Notice of Motion no. 773 of 2014 declined to grant ad-interim relief in favour of the plaintiff.

4 In the present proceeding the plaintiff filed suit no. 7121 of 2001 for specific performance of agreement. In prayer clause (a) of the plaint, the plaintiff claimed declaration that there is valid subsisting agreement of the allotment of shop in the new market between plaintiffs and defendants and other reliefs. The respondents

defendants demolished suit structure on 30.08.2013 and did not renew the plaintiff's vendor pass for carrying out business in Military Area, Colaba, Mumbai. Hence, plaintiffs preferred Notice of Motion no. 773 of 2014 for following relief:

“a) That, this Hon'ble Court be pleased to direct the Defendant (i) to reconstruct the said stall No. 18, Army Market, Colaba, Bombay – 400 005 and to restore it to its original position as existed before its demolition on 23.09.2013 and (ii) to renew the pass of the Application No.2 and to allow the applicants to carry on business at the said stall as earlier;

b) That, ad-interim and interim relief in terms of prayer (a) above be granted;

c) That cost of the Notice of Motion be provided for;

d) That such other and further relief as the nature and circumstances of the case may require.”

5 That Notice of Motion was dismissed by the Trial Court. Hence, the present Appeal from Order.

6 The learned Counsel for the plaintiffs submits that earlier plaintiffs' father was doing business on the basis of vendor pass issued by the respondents. That pass was renewed by the respondents upto 30.09.2013. In the meanwhile, defendants demolished the suit stall on 23.09.2013. He submits that suit is pending for hearing and final disposal. He submits that for last several years, the plaintiffs' father was doing business in the said military area. He submits that if this vendor pass is not renewed till the hearing and final disposal of the suit, irreparable loss and injury will be caused to them. He submits that plaintiffs do not have any source of income. Hence, in the interest of justice, this Hon'ble Court be pleased to direct the defendants to renew the vendor pass in the name of plaintiffs and allow to carry business in

the military area.

7 On the other hand, the learned Counsel for the respondents Union of India vehemently opposed the present Appeal from Order. He submits that Trial Court has rightly held that plaintiffs are not entitled to any relief in the present Notice of Motion. He submits that defendants stopped renewing vendor pass in view of security threat. He further submits that defendants have taken policy not to renew any vendor pass in the area near Sumitra Market, Military Area, Colaba. In support of this submissions, the learned Counsel for the respondents relies on paragraph 10 of their affidavit-in-reply dated 14.02.2014. On the basis of these submissions, the learned Counsel for the respondents submits that there is no substance in the Appeal from Order. Hence, same to be dismissed with costs.

8 I heard both the sides at length. Admittedly in the present proceeding, the suit structure i.e. stall of plaintiffs was demolished by the respondents on 23.09.2013. Not only that, vendor pass was also not renewed by them after September, 2013. Not only that, the respondent Union of India decided not to renew any vendor pass and allow outsiders to carry out any business in the said area in view of security threat. Considering this fact, I do not find any reason to interfere the impugned order dated 26.09.2014 passed by Trial Court rejecting plaintiffs Notice of Motion no. 773 of 2014.

9 Hence, Appeal from Order stands dismissed.

10 In view of dismissal of Appeal from Order, nothing survives in the Civil Application. Hence, same is dismissed as infructuous.

11 The suit filed by the plaintiffs is of 2001. Considering this fact, the hearing of suit no. 7121 of 2001 (High Court suit no. 1511 of 2001) is expedited. Trial Court to decide finally the said suit on or before 31.03.2016.

(K.K.TATED, J.)