

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****APPEAL FROM ORDER NO. 1201 OF 2014****IN****NOTICE OF MOTION NO. 3360 OF 2013****IN****SPECIAL CIVIL SUIT NO. 3454 OF 2013****ALONGWITH****CIVIL APPLICATION NO. 1452 OF 2014****IN****APPEAL FROM ORDER NO. 1201 OF 2014****IN****NOTICE OF MOTION NO. 3360 OF 2013****IN****SPECIAL CIVIL SUIT NO. 3454 OF 2013****Mrs.Celine Maria Rodrigues & Anr.****..... Appellants****VERSUS****Anthony Francis Rodrigues****..... Respondent**

Mr.Shabbir Kapadia for the Appellants.

Mr.Abdul Rahim Mateen Shaikh for the Respondent.

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

By this appeal from order, the appellants have impugned the order dated 18th September, 2014 passed by the learned trial judge granting injunction in terms of prayer clauses (a) and (b) in the notice of motion. Insofar as prayer (a) is concerned, the plaintiff has prayed for injunction against the defendants from using force and harassment carried out against the plaintiff and not to stop the plaintiff from entering into the suit premises. Learned counsel appearing for the respondent

states that he has no objection if the appellant who is according to the respondent has 50% share in the said flat if is allowed to enter the said flat. The only grievance of the learned counsel for the respondent is that the appellant shall not accompany his relatives in the suit flat and even if they are accompanying the plaintiff, they should not be allowed to stay overnight in the said flat.

2. In view of the fact that there is no dispute that the appellant admittedly has 50% share in the suit flat, in my view the appellant cannot be restrained by the respondent from entering into the suit flat. It is however made clear that the appellant shall not create any harassment to the respondent by accompanying any family members for the purpose of staying overnight in the suit flat. At the same time, the respondent also shall not bring any relatives or outsiders to the suit flat or outsider in the suit flat for staying overnight.

3. Insofar as prayer clause (b) is concerned, since both the parties have admittedly have 50% share in the property, both the parties are directed not to create any third party rights in the said premises during the pendency of the suit.

4. In view of the acrimonious dispute and the nature of the allegations made by the parties against each other, it would be appropriate if the proceedings filed before the trial court are expedited. The defendants have already filed written statement. Issues are already framed.

5. Hearing of the suit is expedited. The trial court is directed to dispose of the suit proceedings within two years from today. Both parties are directed to co-operate with each other and with the learned trial judge for expeditious disposal of the suit.

6. Appeal from order is disposed of in the aforesaid terms. No order as to costs.

7. In view of the disposal of the appeal from order, civil application does not survive and is accordingly disposed of.

[R.D. DHANUKA, J.]