

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

APPEAL AGAINST ORDER NO.1 OF 2015

Pralhad S/o Pundlik Naktode and anr

..vs..

Niket Narendra Naktode and anr

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri S.V. Sirpurkar, Counsel for the appellants.
Shri C.S. Kaptan, Sr. Counsel for the respondents.

CORAM : A. S. CHANDURKAR, J.

DATED : APRIL 20, 2015

Heard.

Considering the short issue involved **ADMIT.**

Heard finally with the consent of the learned
counsel appearing for both the parties.

The original defendants have taken exception to
order passed by the first appellate Court dated 4.10.2014
restraining them from interfering with the possession of the
plaintiffs.

The suit for declaration, that the plaintiffs were
owners of the suit property as per Gift Deed dated 3.9.2010
along with perpetual injunction seeking to restrain the

defendants from disturbing the possession, was filed on 1.7.2011. The said suit came to be dismissed by the trial Court. The plaintiffs being aggrieved preferred the appeal. During the pendency of the appeal, the first appellate Court, by order dated 4.10.2014, restrained the defendants from interfering with the possession of the plaintiffs.

The record indicates that an order of interim injunction was operating in favour of the plaintiffs since 11.7.2011 till the dismissal of the suit. Considering said fact, it is not necessary to go into the correctness of the findings recorded by the first appellate Court. Instead, if the appeal itself is directed to be decided expeditiously, the same would serve the interest of justice.

Hence, the following order is passed, thus:

ORDER

1) The appellate Court is directed to decide Regular Civil Appeal No.88 of 2014 expeditiously and by the end of the month of August, 2015.

2) The order dated 4.10.2014 shall operate during pendency of the appeal. However, it is made clear that the correctness of the findings recorded in the impugned order have not been examined by this Court.

3) The appellate Court is free to decide the appeal in accordance with law without being influenced by the present order.

4) The appeal against order is disposed of in aforesaid terms. There shall be no order as to costs.

JUDGE

!! BRW !!