

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4649 OF 2016

Shreedutt Tiwari (HUF) through its Karta
Shreedutt Tiwari and another ... Petitioners
Vs.
Bell and Company Pvt. Ltd. and another ... Respondents

Mr. Hasmit Trivedi i/b. Mr. Mayuresh Borkar for Petitioners.
Mr. Harendra Madhukar Saraf, Managing Director of Respondent No.1
present in person.

CORAM : R. G. KETKAR, J.
DATE : AUGUST 10, 2016

P.C. :

Heard Mr. Trivedi, learned Counsel for petitioners and
Mr. Harendra Saraf, Managing Director of Respondent No.1, who
appears in person.

2. By the impugned order, the appellate Court has set aside the trial
Court's order dated 18.03.2015. By that order, the learned trial Judge
rejected the application made by the respondent seeking directions to the
obstructionist to pay mesne profits @ Rs.250/- per square feet per month
from September 2008 till handing over possession of the suit premises.
Mr. Trivedi submits that as the appellate Court has remitted the matter to
the trial Court, all the contentions of the petitioners on merits including
respondents-decree holders who filed substantive proceedings for
determination of mesne profits may be kept open.

3. Mr. Trivedi states that Mr. Pankaj Tiwari, petitioner No.2 as also
Constituted Attorney of petitioner No.1 is present in the Court.
Petitioner No.2 has handed over keys of the suit premises to
Mr. Harendra Saraf. He has also tendered letter of possession dated

10.08.2016 signed on behalf of the respondent No.1. The same is taken on record and marked 'Y' for identification. Mr. Saraf confirms receipt of the keys handed over by the petitioners.

4. As the petitioners have handed over keys of the suit premises to the respondent No.1 and by the impugned order, the matter is remitted to the trial Court for determining mesne profits from September 2008 till today, being the date of handing over possession, it is not necessary to interfere with the impugned order. All contentions of the parties on merits are expressly kept open. The trial Court will decide the application uninfluenced by the observations made herein. Petition stands disposed of accordingly with no order as to costs.

(R. G. KETKAR, J.)

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