

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 185 OF 2016

Chintpurni school Educational Society & Anr. ...Appellants/Orig.Plffs.
Vs.
Board of Directors of
Punjab National Bank & Ors. ...Respondents/Orig.Dftds.

Mr. Mathews J. Nedumpura with Mr. R.R. Nair &
Ms. Rohini M. Amin, Advocates for the Appellants
Ms. Sumedha Sawant i/b. M.N.Amin, Advocate for
Respondent Nos. 10 to 12
Mr. Anup Khaitan i/b. Anup Khaitan & Co., for
Respondent Nos. 6 to 9
Mr. Pranil Sonawane a/w. Mr.Aditya Parulekar, Advocate for
Respondent No.1 for Punjab National Bank

CORAM : N.M. JAMDAR, J.
DATE : 9TH MARCH, 2016.

P.C. :

The appellants challenge the order passed by the City Civil Court, Mumbai dated 30th January, 2016, refusing the prayer made by them for grant of injunction under Section 9A(2) of CPC.

2] Heard the learned Counsel for the parties.

3] Learned Counsel for the appellants submitted that the

impugned order is incorrect as the suit filed by the appellants is maintainable and equitable grounds for grant of ad-interim injunction exists. The learned Counsel for the respondents submitted that the suit is not maintainable and the view taken by the learned Judge, City Civil Court, Mumbai is correct. They also contended that no cause of action had arisen in the jurisdiction of the City Civil Court, Mumbai. They submit that the impugned order refusing the injunction was rightly passed.

4] The City Civil Court, Mumbai is yet to decide the preliminary issue as regards the jurisdiction for which the matter was initially adjourned to 10th March, 2016 and now posted on 2nd April, 2016. The only question is whether any protective order is required to be passed in favour of the appellants in the meanwhile.

5] The learned Counsel for the respondent No.1 states that an advertisement was issued on 15th February, 2016 calling for bids for sale of the properties and the last date of receipt of bids was today. He states that no response is received to the advertisement till today and therefore, no steps for sale of property can take place pursuant to this advertisement. This statement is accepted. He states that even otherwise, if the proceedings are to be initiated, fresh sale

notice is required to be issued and the conclusion of sale proceedings will take time. Therefore, it is not necessary to either go into the merits of the matter or consider the issue of protection to the appellants. The City Civil Court, Mumbai will dispose of the preliminary issue on the next date of hearing. The learned Counsel appearing for the parties assure that they will co-operate with the City Civil Court for hearing as to the preliminary issues and the disposal.

6] Learned Counsel for the appellants made a statement that the appellants to show their bonafides are ready to furnish a bank guarantee for the amount. However he states that the value of the property is worth much more than the dues as can be seen from the advertisement. The learned Counsel wants the Court to record his statement as regards the exact figures. However, since I am not inclined to go into the merits, it will be appropriate that these details are left open to be decided by the competent Court.

7] The learned Counsel for the appellants made grievance that when the sale of the properties or any steps are taken, the appellants are not being informed of the same. If any advertisement for sale of property is to be published, the respondent will inform the

Advocates representing the appellants in the suit. As regards the other steps to be taken by the respondents in respect of the property, if in law, the appellants is entitled to receive any notice then it shall be given to the appellants. The learned Counsel for the appellants urged that the direction that any steps taken by the respondents should be communicated to the appellants as per law is not comprehensive and insists that, irrespective of whether it is permissible in law or not, every action taken by the respondents should be communicated to the appellants. This grievance is entirely misconceived, as “as per law” will cover all eventualities, including the principles of natural justice.

8] The Appeal is disposed of accordingly.

(N.M. JAMDAR, J.)

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