

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1850/2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Karan Bhosale i/b. Neha D. Bhosale for the petitioner

Mr. Amit Devkar Kenani for the respondent No.5.

Mr. Rajeev Matkar for respondent No.6.

CORAM : K. K. TATED, J.

DATE : MAY 3, 2016

P.C.:

1. Heard. By this petition under Article 227 of the Constitution of India the Petitioner - plaintiff challenges the order dated 10.07.2013 passed by the Court of Small Causes below Exhibit- 9 in RAE Suit No.2097/2012 and the order dated 12.12.2014 passed by the Appellate Bench of Small Causes Court in Misc. Appeal No.150/2013 by which the plaintiff's application for temporary injunction under order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908 was rejected.

2. After hearing for some yesterday, the matter was adjourned for today.

3. The learned counsel for the respondent No.6 filed affidavit dated 03.05.2016 stating that till

hearing and final disposal of the RAD Suit No.2097/2012, the respondent No.6 will not create any third party right, title and interest in respect of the suit premises as well as permanent alternate accommodation in lieu of the suit premises, if it is allotted. Paragraph Nos.2 and 3 of the said affidavit read thus:

“2. I say that the plaintiff has filed the present suit in or about November 2012. I say that before that or thereafter I have not created any third party, right, title, interest in the suit premises and I have not parted with possession of the suit premises to any third person or party. I say that I shall not create any third party interest in the suit premises and I shall not part with possession of the suit premises to any third person or party during the pendency of RAD Suit No.2097/2012.

3. I say that in case during the pendency of the suit, I am allotted a permanent accommodation in lieu of the suit premises, then in that case also I shall not create any third party interest in such permanent alternate accommodation and I shall not part with possession of the such permanent alternate accommodation to any third person or party during the pendency of RAD Suit No.2097/2012.”

4. The learned counsel for the respondent No.6 submits that respondent No.6 is present in court. Undertaking given by him is accepted.

5. Considering both the orders passed by the appellate court as well as the trial court and the undertaking given by respondent No.6, I do not find any substance in the Writ Petition. Hence, same stands dismissed as infructuous

6. Hearing of RAD Suit No.2097/2012 is expedited.

7. All contentions of the parties are kept open.

JUDGE