

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3175 OF 2013

Evershine Builders & Ors.	..	Petitioners
vs.		
Mrs. Anupama J. Kulkarni & Ors.	..	Respondents

Mr. Yuvraj P. Narvankar for Petitioner.
Mr. Amol G. i/b. Mr. S. B. Deshmukh for Respondent Nos. 1 and 2.

CORAM : M. S. SONAK, J.
DATE: 20 JULY 2016

P.C :

1] The challenge in this petition is to the order dated 15 December 2012 made by the learned District Judge (1) Karad, allowing Misc. Civil Appeal No. 22 of 2012 and restraining the petitioners (original defendants) in Regular Civil Suit No. 204 of 2012 from proceeding with the construction in the suit property. The position of restraint has been in operation at least since 15 December 2012, since, no interim relief was granted by this Court in the present petition. Rather than admit this petition, in order to consider whether the interim order dated 15 December 2012 is required to be varied, the interests of justice would be best served if the learned Civil Judge, Junior Division at Karad taking up Regular Civil Suit No. 204 of 2012 is directed to dispose of the said civil suit on merits and in accordance with law as expeditiously as possible and in any case within a period of one year from today.

Accordingly, directions to this effect are hereby issued to the learned Civil Judge, Junior Division at Karad.

2] Further, it is made clear that this Court has not examined the matter on merits and therefore, the trial court is directed to dispose of the civil suit, without in any manner being influenced by the observations, reasoning or conclusion in the impugned order dated 15 December 2012 or for that matter the circumstance that the present petition is not being entertained by this court. The suit to proceed and be decided on the basis of the evidence which the parties may lead before the trial court and with due regard to the law as may be applicable. Accordingly, all contentions of all parties on merits are kept open.

3] The parties to cooperate with the trial court in the matter of expeditious disposal of the suit. Now that the injunction obtained by the respondents herein (original plaintiffs) is not being interfered with, the plaintiffs to particularly cooperate in the matter of expeditious disposal of the suit and not to apply for any unnecessary adjournments or delay the suit. The learned counsel for the respondents assures this court that there shall be utmost cooperation on the part of the plaintiffs to the suit and there is no reason for this court to doubt that such assurance shall not be kept.

4] This petition is accordingly disposed of in the aforesaid terms.

There shall be no order as to costs.

5] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

Chandka