

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO.519 OF 2014
along with
CIVIL APPLICATION NO.611 OF 2014
in
APPEAL FROM ORDER NO.519 OF 2014**

Kalpana Kantilal Jain .. Appellant/Applicant
Vs.
Sandeep Kantilal Jain & Anr. .. Respondents

Mr.Tejas Vora i/by Mr.Sagar Kasar for the appellant/applicant.
Mr.Deepak Chitnis i/by M/s.Deepak Chitnis-Chiparikar & Co. for the respondents.

CORAM : R.D. DHANUKA, J.
DATE : 11th January 2016

P.C.

. By this appeal from order, the appellant (original plaintiff) has impugned the order dated 20th March 2014 passed by the learned trial Judge dismissing the notice of motion. In the said notice of motion filed by the appellant (original plaintiff), the appellant has prayed for mandatory order and injunction against the respondents from removal from her suit property. The respondent no.1 is the son of the appellant and the respondent no.2 is the daughter-in-law.

2. Since March 2014, there is no interim order passed by this Court. The appellant and the respondents are staying in the flat which is admeasuring about 2000 sq. feet The appellant and the respondents are staying in separate bed rooms.

3. Mr.Chitnis, learned counsel appearing for the respondents states that the respondents are not creating any harassment to the

appellant nor would harass the appellant. Statement is accepted. Mr.Vora, learned counsel for the appellant states that the matter is at the stage of framing issues and proposes to proceed before the trial Court expeditiously.

4. In my view, in view of the aforesaid reasons, no case is made out for interference with the order dated 20th March 2014 passed by the learned trial Judge refusing to grant mandatory injunction against the respondents for their removal from the suit property at this stage.

5. Learned trial Judge shall make an endeavour to dispose of the suit expeditiously in view of the fact that the appellant is a senior citizen. Both the parties are directed to co-operate with each other and with the learned trial Judge in expeditious disposal of the suit. Suit shall be disposed of within one year from the date of commencement of the oral evidence. It is made clear that the trial Judge shall dispose of the suit on its own merits without being influenced by the observations made in the order dated 20th March 2014 passed by the learned trial Judge.

6. Appeal from order is disposed of in the aforesaid terms. In view of disposal of the appeal, civil application does not survive and is accordingly disposed of. No order as to costs.

R.D. DHANUKA, J.