

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

**APPEAL FROM ORDER NO. 1075 OF 2014
ALONG WITH
CIVIL APPLICATION NO. 1301 OF 2014**

Mr.Narendra Trivikram Khanolkar & anr. ... Appellants/
Applicants
v/s

Suresh Trivikram Khanolkar & ors. ... Respondents

Ms.N.S.Moily for the appellant/applicant.

Mr.M.R.Yadav i/by N.D. Jayawant for Resp. No.2.

CORAM: N.M. JAMDAR, J.

DATED : 21 MARCH 2016

PC.:

By this appeal, the Appellants challenge the order passed by the City Civil Court dated 18 March 2014. By the impugned order, the City Civil Court has rejected the notice of motion taken out by the Appellants for direction to the Respondents to furnish details, and also to restrain them from carrying out any work creating third party rights, etc.

2 The learned City Civil Court Judge has considered the evidence on record and has rendered a finding that the Appellants do not have a *prima facie* case for grant of reliefs prayed for. The

order passed by the City Civil Court is a detailed order. The discretion used by the City Civil Court cannot be stated to be perverse. The notice of motion is dismissed two years back. The appeal has come up on board in regular course, after delay in filing the appeal was condoned. It is informed that the suit is now at the stage of evidence. Therefore, I am not inclined to grant the relief as prayed for in this appeal.

3 It is clarified that the observations made by the learned City Civil Court, while dismissing the notice of motion, are *prima facie* observations. Since the suit is at the stage of evidence, it is not necessary to pass any further order for expeditious disposal of the suit.

4 The appeal is accordingly disposed of.

5 In view of disposal of the appeal, the civil application does not survive and is disposed of.

(N. M. JAMDAR, J.)