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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO. 13995 OF 2015

Iqbal Hussain Mirza Baig & Ors.	...Appellants
V/s.	
Rustam Patel & Ors.	...Respondents

Mr.Suryakant Pise for the Appellants.
Mr.Haresh Mansukhani for Respondent No.1.
Mr.Rakesh Agarwal with Ms.Sanjukta Dey for Respondent No.3.

CORAM : R.D. DHANUKA, J.
DATE : 5TH JANUARY, 2016.

P.C. :-

1. By this appeal from order the appellants have impugned the order passed by the learned trial Judge dismissing Notice of Motion No.2562 of 2012, which was filed by the original defendant nos.1 to 4 inter-alia praying for an order against the Court Receiver to hand over possession of the suit premises to them.

2. A perusal of the impugned order indicates that when the Court Receiver was appointed, the Court Receiver had taken possession of the suit premises from the defendant no.1. The learned trial Court has considered this issue in the impugned order and has rightly dismissed the notice of motion filed by the defendant nos.1 to 4.

3. Learned counsel appearing for the defendant no.1 submits

that after passing of the impugned order by the learned trial Judge, the Court Receiver has already handed over possession of the suit property to the defendant no.1.

4. It is however the grievance of learned counsel for defendant nos.2 to 4 that during the pendency of this appeal, the Court Receiver could not have handed over possession of the suit premises. His next submission is that possession was not handed over to the defendant no.1 but to the son and wife of the defendant no.1.

5. In my view, since the Court Receiver has already handed over possession of the suit premises, this appeal from order does not survive and is accordingly dismissed.

6. It is however, made clear that if according to the appellants (original defendant nos.2 to 4) the Court Receiver has not complied with the order passed by the learned trial Judge, it is for the appellants to adopt appropriate proceedings in that regard.

7. The appeal from order is dismissed with aforesaid directions.

8. In view of the dismissal of the appeal from order, the civil application does not survive and is accordingly dismissed. No order as to costs.

(R.D. DHANUKA, J.)