

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

WRIT PETITION NO.6477 OF 2014

**Chandradevdas Badriprasad @
Chandradevdas Gurukamaldas : Petitioner.
versus
Tejnarayandas Gurumahant Shamal & ors. : Respondents.**

**Mr. Rajesh Datar for the Petitioner.
Mr. Vijay Killedar for the Respondent Nos.1 to 3.**

**CORAM : R. M. SAVANT, J.
DATE : 19th October 2016**

P.C.

1 The order dated 30/04/2014 passed by the learned 4th Joint Civil Judge, Senior Division, Kalyan allowing the Application (Exhibit 91) filed by the Respondent Nos.1 to 3 herein i.e. the original Plaintiffs is taken exception to by way of the above Writ Petition. The operative part of the impugned order reads thus :-

- “(1) The application is allowed.
- (2) Defendant No.1 do deposit the amount of Rs.5 Crores in the Court.
- (3) Defendants to maintain status quo in respect of suit property till decision on the application at Exhibit 63.”

2 After arguing for sometime, Shri Vijay Killedar, the learned counsel appearing on behalf of the Respondent Nos.1 to 3 i.e. the original Plaintiffs, who are the proponents of the Application (Exhibit 91), on

instructions makes a statement that the Respondent Nos.1 to 3 are agreeable to the impugned order dated 30/04/2014 being set aside. In view of the said statement, the impugned order dated 30/04/2014 is accordingly set aside. In view thereof the Application for striking of the defence of the Petitioner herein i.e. the original Defendant No.1 would not survive and would accordingly stand disposed of as such.

3 The learned counsel appearing for the parties point out that the Application (Exhibit 5) for temporary injunction filed by the Respondent Nos.1 to 3 i.e. the original Plaintiffs is pending as also the Application (Exhibit 63) filed by the Plaintiffs is also pending. The said Application (Exhibit 63) has been filed inter alia for the reliefs claimed therein amongst which is the relief that the Defendant No.1 be directed to deposit the amount of Rs.5 crores in the Trial Court.

4 The learned counsel appearing on behalf of the Respondent Nos.1 to 3 i.e. the original Plaintiffs Shri Vijay Killedar, on instructions states that the Respondent Nos.1 to 3 i.e. the original Plaintiffs would seek deletion of prayer clause (b) of the Application (Exhibit 63) and substitute the same by an appropriate prayer clause seeking relief of protecting the Plaintiffs' interest on account of the alleged sale of the property by the Defendant No.1. Statement accepted. The Trial Court would permit the Plaintiffs to delete prayer clause

(b) of the Application (Exhibit 63) and substitute the same by an appropriate prayer. Amendment to be carried out within four weeks from date. Both the Applications i.e. the Application (Exhibit 5) and the Application (Exhibit 63) to be heard and decided by the Trial Court latest by 31/01/2017. Needless to state that both the Applications would be tried on their own merits and in accordance with law and the fact that the impugned order dated 30/04/2014 is set aside should not be construed as any expression of opinion on merits of the respective cases of the parties.

5 With the aforesaid directions, the above Writ Petition is disposed of.

[R.M.SAVANT, J]