

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4561 OF 2016

IN

FIRST APPEAL NO.184 OF 2012

Christiline D'Costa.	]	... Applicant/ Orig.Resp.No.4
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In the matter between :

Lawrence P. D'Cruz.	]	... Appellant/ Orig. Plaintiff
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Versus

Maharashtra Housing and Area	]	
Development Authority and Ors.	]	... Respondents/ Orig. Defendants

Ms. Sukeshi Bhandari for Applicant.

Ms. Sukruta A. Chimalkar for Appellant in First Appeal.

Mr. S. P. Thorat for Respondent No.1 - MHADA.

CORAM :- DR. SHALINI PHANSALKAR-JOSHI, J.

DATE :- OCTOBER 26, 2016

P. C. :-

1. This is an application preferred by the respondent no.4 seeking permission to get back her original documents, namely, ration card, passport of her husband, her own election identity card and identify card of MHADA for Room No.183/6600 which are marked as Exh.62 (colly), Exh.63 (colly), Exh.52 (colly) and Exh.45 (colly)

respectively. It is submitted that these documents are required for the purpose of renewal and for the purpose of transferring the property in Goa which stands in the name of her husband.

2. The learned Counsel for appellant submits that she has no objection to return these documents to the respondent no.4 provided the respondent no.4 undertakes that no third party interest will be created on the basis of these documents as there is apprehension that return of these documents is requested for the purpose of creating third party interest.

3. The learned Counsel for respondent no.1 - MHADA also expressed the same apprehension and assurance from the respondent no.4.

4. The learned Counsel for applicant / respondent no.4 submits that these documents are not at all essential for the purpose of creating third party interest and that apprehension is without any reason. It is also submitted that there is already order passed by this Court restraining the respondent nos.2 to 4 from creating third party interest in respect of the property.

5. However, the learned Counsel for appellant submits that as the appeal is dismissed for default against the respondent nos.2 and 4, it is necessary to have such assurance, considering that the appellant is filing an application for restoration of appeal against respondent nos.2 and 4.

6. In view thereof, the application is allowed and the documents, as stated above, are directed to be returned to the respondent no.4 subject to the assurance and understanding by the learned Counsel for applicant / respondent no.4 that no third party interest will be created and the documents will be immediately returned after the purpose for which they are asked for is served.

7. Civil Application is accordingly disposed of.

(DR.SHALINI PHANSALKAR-JOSHI, J.)