

JPP

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

***APPEAL FROM ORDER NO. 82 OF 2016
WITH
CIVIL APPLICATION NO. 105 OF 2016***

Mr. Mahabal L. Shetty. ... Appellant/Applicant.

V/s.

Mrs. Shakila Ansari and Ors. ... Respondents.

Mr. Surel Shah i/b. Ashoka Law Firm for the Appellant/Applicant.
None for the Respondents.

***CORAM : N.M. JAMDAR, J.
DATE : 28 MARCH, 2016.***

P.C. :-

The Appeal challenges rejection of Notice of Motion No. 789 of 2003 by the impugned order passed by the City Civil Court on 10 September 2003.

2. Notice of Motion was taken out in Suit No. 6506 of 2003. The Suit was initially filed in this Court. Thereafter, it was transferred to the City Civil Court. The Suit is filed under Section 6 of the Specific Relief Act. This Court, by order dated 17 March 2003, had granted ad-interim relief in favour of the Appellant. However, the Notice of Motion was dismissed. Subsequently, on

17 June 2003, the Notice of Motion was restored and liberty was granted to the Appellant to take out fresh application for ad-interim orders.

3. The learned Judge, City Civil Court has rejected the Notice of Motion by the impugned order. The Notice of Motion and the Suit are pending since the year 2003. The Suit is filed under Section 6 of the Act and therefore, it is necessary that the Suit is tried and disposed of early. The learned City Civil Court has also kept that position in mind while disposing of the Notice of Motion by observing that since the Suit is pending since long and that the issues are framed and the matter is posted for final hearing, the Suit can be disposed of. The learned Counsel for the Appellant submitted that in view of this position, it was not necessary for the City Civil Court to make observations on merits of the case of the Appellant. This grievance is justified. Though I am not inclined to interfere with the impugned order, it is clarified that the observations made therein are purely prima-facie and the Suit will be tried on its own merits. The City Civil Court will no doubt keep in mind the pendency of the Suit of 13 years and give it priority it deserves.

4. The Appeal from Order is accordingly disposed of. The Civil Application is also disposed of.

(N.M. JAMDAR, J.)