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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO.31943 OF 2015
WITH
CIVIL APPLICATION (STAMP) NO. 31944 OF 2015
IN
APPEAL FROM ORDER (STAMP) NO.31943 OF 2015

Shivshakti Kalimata Welfare Associate	...Appellant
V/s.	
Deepa Nanigopal Adhikari	...Respondent

Mr.R.A. Thorat, Senior Advocate i/b Ms.Pratibha Shelake for the Appellant.

Mr.D.K. Pandey with Mr.Jitendra Singh for the Respondent.

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

P.C. :-

1. By this appeal from order, the appellant has impugned the order dated 28th September, 2015 passed by the learned trial Judge allowing the notice of motion in terms of prayer clauses (a), (b) and (b-a).

2. Mr.Thorat, learned senior counsel for the appellant (original defendants) submits that at this stage the appellant is seriously prejudiced by the reliefs granted in terms of prayer clause (b-a) by the learned trial Judge. He submits that by relying upon the

said relief, the original plaintiff is making an attempt to stop the defendants from performing any worship though no such injunction is granted by the learned trial Judge against the defendants from performing any worship to the suit property.

3. Learned senior counsel for the appellant submits that though the appellant had large number of documents in their possession to show that the appellant was in exclusive possession of the suit property, the appellant could not produce the same due to unavoidable reasons and submits that those documents will be relied upon by the appellant by filing the written statement before the learned trial Judge. The appellant is at liberty to file the written statement, if so desire and can rely upon those documents. Insofar as prayer clause (b-a) is concerned, I have perused prayer clause (b-a) and also the impugned order passed by the learned trial Judge. In my view, grant of prayer clause (b-a) does not restrain the appellant from performing any worship in the suit property. It is accordingly clarified that the said order only prevents the appellant from obstructing the plaintiff to enter into the premises to use the open land for parking the vehicle and performing pooja in temple situated in the suit premises and from disturbing the respondent from possession of the suit premises. It is made clear that the appellant while performing the said worship shall not disturb the possession of the suit premises of

the plaintiff.

4. The appeal from order is accordingly disposed of in aforesaid terms. No order as to costs.

5. The appellant is directed to file the written statement before the learned trial Court within four weeks from today and shall serve a copy thereof upon the learned advocate of the plaintiff simultaneously.

6. The learned trial Judge shall make an endeavor to disposed of the suit within a period of two years from the date of filing of the written statement.

7. In view of the disposal of the appeal from order, the civil application for stay does not survive and is accordingly disposed of. No order as to costs.

(R.D. DHANUKA, J.)