

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.250 OF 2015
IN
SUIT NO.2063 OF 2001
WITH
NOTICE OF MOTION NO.516 OF 2015
AND
NOTICE OF MOTION NO.1104 OF 2015
IN
APPEAL NO.250 OF 2015

Neeru Batra

Appellant

versus

Jaswinder Paul Batra and others

Respondents

Mr.Vibhav Krishna i/by Sharath Pai for Appellant.

Mr.Kamal Khata with Mr.Akshay Vani for Respondents 1 to 3.

Mr.Rushabh Sheth i/by M.S.Bodhanwala & Co. for Respondent no.1.

CORAM : A.S.OKA AND P.D.NAIK, JJ.

DATE : 21st March 2016

PC :

1. Heard learned counsel appearing for the Appellant, the learned counsel for the First to Third Respondents (original Plaintiffs) and the learned counsel appearing for the Fifth Respondent (original Defendant no.3).

2. Learned counsel appearing for the First to Third Respondents, who are the Plaintiffs, on instructions, states that the said Respondents have no objection if by setting aside the impugned order dated 23rd February 2015, the issues of limitation and res-

judicata are ordered to be tried afresh, along with other issues which are framed on 22nd September 2015 by the learned Single Judge. Learned counsel for the Appellant as well as learned counsel for the Fifth Respondent have no objection to adopt the said course.

3. Hence, we allow the appeal by passing following order :

(a) We request the learned Single Judge to decide preliminary issues framed under order dated 30th November 2011 along with other issues which are framed on 22nd September 2015. All contentions on merits are kept open;

(b) Needless to state that the parties are entitled to lead evidence on all issues including aforesaid two issues framed on 30th November 2011. All contentions on merits are kept open.

(c) The appeal is disposed of with above directions.

(d) Pending Notice of Motion Nos.516 of 2015 and 1104 of 2015 do not survive and stand disposed of as such.

(PD.NAIK, J.)

(A.S.OKA, J.)