

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER (ST) NO. 2628 OF 2017

Mrs. Seema N. Jain and anr. .. Appellants
vs.
Mrs. Indu R. Jain and anr. .. Respondents

Mr.V.A. Thorat, Senior Advocate a/w. Mr K.V. Thorat i/b.
Mr.R.S. Tanna for the Appellants.
Mr. Kalpesh Joshi for Respondent No.1.

CORAM : M. S. SONAK, J.
DATE : 15 FEBRUARY 2017.

P.C. :-

1] Heard Mr. Thorat, learned senior advocate for the appellants and Mr. Joshi, learned counsel for respondent No.1. For the order which is now proposed to be made, the presence of respondent No.2, which is the society, is not necessary.

2] The learned counsel for the parties agree that this appeal can be disposed of finally at this stage itself.

3] The challenge in this appeal is to the order dated 23 December 2016, by which, the respondent (original plaintiff) has been granted the ad-interim relief subject to certain conditions.

4] According to the appellants (original defendants), such an ad-interim relief, amounts to grant of final reliefs at the ad-interim stage. At this stage, for the order which is proposed to be made, there is no necessity to take into consideration such contention.

5] The matter is fixed before the Trial Court on 18 February 2017 for filing reply to the main notice of motion. Mr. Thorat, learned senior advocate for the appellants (original defendants) states that such reply will be positively filed on 18 February 2017 before the Trial Court. The reply will not only address the notice of motion, in which the impugned ad-interim order has been made, but also to other notice of motion. Respondent No.1 to file rejoinder, if any, within a period of two weeks, i.e., on or before 1 March 2017. Learned Trial Judge is directed to dispose of the two notices of motion, as expeditiously as possible and in any case on or before 15 April 2017. Such disposal shall be in accordance with law and on its own merits. Learned Trial Judge need not be influenced by any of the observations in the impugned order dated 23 December 2016 or for that matter, the *status quo* order granted by this court. The notices of motion shall be decided in accordance with law and on their own merits. All contentions of all parties are kept open.

6] The aforesaid, in my view, will be appropriate course of action to adopt in the present case, as otherwise there will be virtually duplication of arguments. Further, any order that this court may pass will have to be only pending decision in the notices of motion. Instead, if the notices of motion are directed to be disposed of expeditiously and in any case on or before 15 April 2017, the same will be conducive to the interest of justice. Until disposal of notices of motion, both parties to maintain *status quo* in respect of the suit premises.

7] The statement made on instructions by Mr. Thorat, learned senior advocate for the appellant, that Mrs. Trishala Devi Jain, who is mother of appellant No.1 is welcome to stay in the suit premises is noted and accepted.

8] The appeal is disposed of in the aforesaid terms. There shall however, be no order as to costs.

9] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)

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