

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

APPEAL FROM ORDER NO. 424 OF 2014

Jagdish Ramsharan Agarwal ... Appellant
V/s.
Maksood Ali Shaukat Ali Khan & Ors. ... Respondents

None present.

CORAM : M.S. SONAK, J.
DATE : 29th MARCH, 2017.

P.C. :

1 Neither the appellant nor his advocate are present. The Appeal is admitted on 17.06.2014. The order records that respondent Nos.1 to 9 have waived service. However, the Registry noting states that injunction writ issued to respondent Nos.1 to 8 on 26.06.2014, are returned unserved. Since, service is already been waived in the main Appeal on behalf of respondent Nos.1 to 9, service is required to be taken as completed in the pending Civil Application as well.

2 The challenge in this Appeal is to the order dated 06.03.2014 by which the Notice Of Motion No.192 of 2014 taken out by the plaintiff (appellant herein) came to be rejected.

3 This Court, while disposing of the Civil Application No.485 of 2014 in the present Appeal from Order No.424 of 2014 made the following order :-

..... “ 9 Consequently the Civil Application is allowed in the following terms.

i) *The respondents original defendants are restrained from disturbing the possession of the applicant of the suit property i.e. land admeasuring 794.9 sq. meters land from CTS No. 430, 430/1 to 430/15 situated at Village Kanheri, Taluka Borivali, till the hearing and final disposal of the present Appeal from Order.*

ii) *Appellant shall not develop the property and shall not create third party right, title and interest in the suit property till the hearing of Appeal from Order.*

iii) *Considering the facts and circumstances of the present case, hearing of S.C. Suit No. 2612 of 2013, is expedited. ”*

4 The aforesaid position is in operation since 21.07.2014. Besides, this Court had also directed the learned Trial Judge to expedite the hearing of S.C. Suit No.2612 of 2013. As such, it is possible that the Suit itself has been disposed of.

5 In the aforesaid circumstances, this Appeal is disposed of by reiterating the directions issued in the order dated 21.07.2014 disposing of the Civil Application No.485 of 2014.

6 The Appeal is disposed of in the aforesaid directions. There would be no order as to cost. Civil Applications, if any, do not survive and the same are also disposed of. If the Suit is not already disposed of, the learned Trial Judge is directed to dispose of the same in accordance with law and on its own merits. While disposing of the Suit, the learned Trial Judge need not be influenced by any of the observations made in the impugned order or for that matter in the order dated 21.07.2014 made by this Court.

7 All contentions of all parties are left open for determination by the learned Trial Court.

(M.S. SONAK, J.)