

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 800 OF 2014
WITH
CIVIL APPLICATION NO.961 OF 2014**

Ashok Narayan Pipraiya	...Appellant
<i>Versus</i>	
Leelabai Narayan Pipraiya and Anr.	...Respondents

None for the Appellant.
None for the Respondents.

CORAM: G.S. PATEL, J
DATED: 12th June 2017

PC:-

1. The Appeal is directed by the 1st Defendant against an order dated 13th June 2014. The 2nd Defendant, presently the 2nd Respondent, is the Appellant's wife. The 1st Respondent, Leelabai, is the Appellant's mother.

2. Leelabai was the Plaintiff. She filed a suit against her son and daughter-in-law for a declaration that she was in lawful possession of Flat No. 209, Wing "C" of Mulund Siddhi Co-operative Housing Society, MHADA Colony, Mulund (East), Mumbai 400 081 and for a temporary injunction directing the Defendants to remove

themselves from this flat and a restraint against them from disturbing Leelabai's possession. Before the Trial Court, Leelabai contended that not only were her son and daughter-in-law not paying maintenance but they were also subjecting her to cruelty and suffering. In paragraph 6, the learned Judge noted an incident where Leelabai said that the Defendants poured kerosene over her and tried to immolate her; fortunately, the police interceded.

3. The Defendants were served with Leelabai's Motion. At first, they appeared and sought time. Thereafter, they did not enter appearance or contest the proceedings. Leelabai's Advocate told the Court that on 10th June 2014, merely three days before the order, Leelabai was mercilessly beaten by Defendant No. 1 and was being pressurised to withdraw the suit.

4. The Appeal was filed very shortly after the impugned order. By a detailed order dated 3rd July 2014, KK Tated J declined ad-interim relief to the Appellants. The office was directed to issue notice before admission to the Respondents. Private notice was also permitted. The Appellants were directed to remove all office objections. Tated J also noted the two findings in paragraphs 6 and 7 of the impugned order.

5. The matter has been on board since then. Leelabai has entered appearance through Mr BC Joshi. It was listed before me on 5th June 2017, last Monday. Mr Joshi appeared on that day. None appeared for the Appellant, Leelabai's son.

6. I see absolutely no reason to adjourn this matter any further. It has been listed five times already. The office noting shows that the Respondents have been served. I am particularly, of course, concerned with service on Leelabai.

7. The Appeal is dismissed. It is made clear that it will not be restored unless there is an application for restoration, and it is clarified that any such application will be dealt with having regard to the circumstances of the case. The Appellant may be put to extremely stringent preconditions if the Appeal is even considered for restoration.

8. The Civil Application is infructuous and disposed of accordingly.

(G. S. PATEL, J.)