

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER (ST) NO. 19324 OF 2017
WITH
CIVIL APPLICATION (ST) NO.19327 OF 2017

Mohanbabu Shetty	...Appellant
<i>Versus</i>	
Tista Impex Pvt Ltd	...Respondent

Mr Pradeep J Thorat, *for the Appellant.*
Mr KH Holambe Patil, *for the Respondent.*

CORAM: G.S. PATEL, J
DATED: 24th July 2017

PC:-

1. The dispute really relates to the access to the Plaintiff's residence being blocked. The Plaintiff has complained that the Defendant was putting up a boundary wall so close to the entrance that the Plaintiff could not even enter his own residence. The Plaintiff took up the matter with the Corporation and then filed a Writ Petition. There is an order and therefore there is no issue of the wall obstructing the Plaintiff's entrance today. The Writ Petition is yet pending.

2. In the present dispute, the Plaintiff alleges that the Defendant had dug up a stretch of the alley outside the Plaintiff's house and

made it impossible for the Plaintiff to access his residence. I am shown a compilation of photographs. On behalf of the Defendant it is submitted that on the date of the suit this work was in fact completed and the work was only of laying a drainage line and then providing a covering for it. From the photographs that are shown to me, it appears that this work is complete. It may not be to the satisfaction of the Plaintiff, but that is immaterial.

3. Mr Thorat for the Appellant urges me to direct that the *status quo* as of today should be maintained. That is too generalised and vague. The only order that can be passed is that the access of the Plaintiff to his residence including the two steps leading up to it is not be permanently blocked or obstructed. If there is any work being done in that area which is likely to cause the Plaintiff any inconvenience, he must be given sufficient notice. Given that this is the only entrance, if there is digging or excavation work to be done, some temporary provision must be made so that the Plaintiff can access his front entrance.

4. This order does not address any questions about encroachment by either of the parties. All rights and contentions in that behalf are expressly left open for determination in suit. The Defendant has already filed written statement. The Trial Court is requested to take up the matter at the earliest for framing issues and for directions as to the trial.

5. The Appeal is disposed of in these terms. No costs.

6. In view of the disposal of the Appeal, the Civil Application does not survive and is disposed of accordingly.

(G. S. PATEL, J.)