

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO.245 OF 2015
WITH
CAA/311/2015**

Rafique Khalique Shaikh

... Appellant

Vs.

Zaikiabi Kadar Mohammed & Ors.

... Respondents

None for the Appellant

Mr.V.V. Salunke for Respondent No.2

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 3rd OCTOBER, 2017

P.C.:

1. None present for the appellant. At the outset, the learned Counsel for Respondent No.2 submitted that the Suit is of the year 2009 and today, the suit might have been proceeded with evidence and hearing. He also submitted that no interim relief was granted in the present Appeal from Order.

2. In this appeal, the appellant prayed that the order dated 8.8.2014 passed by the learned Judge of the City Civil Court, Bombay, be quashed and set aside. By the said impugned order, the learned trial Court dismissed the Notice of Motion No.103 of 2014

which was moved for restoration of earlier Notice of Motion No.3595 of 2009 in Suit No.3532 of 2009. The Notice of Motion No.3595 of 2009 was moved for seeking relief that the defendants be restrained from creating third party interest in respect of the suit premises. The said Notice of Motion was dismissed for default and then, after a delay of 1120 days, the Notice of Motion No.103 of 2014 was taken out. The trial Court has held that there was no sufficient reason given by the plaintiff to restore the earlier Motion which was dismissed for default and hence, it dismissed the said Notice of Motion.

3. Considering the nature of the relief which was sought in the first Notice of Motion and as the Suit is of the year 2009, I am of the view that this Appeal deserves to be dismissed and it is accordingly dismissed.

4. Civil Application also stands dismissed.

(MRIDULA BHATKAR, J.)