

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

**APPEAL FROM ORDER NO. 1132 OF 2013
WITH
CIVIL APPLICATION NO. 1339 OF 2013
WITH
CIVIL APPLICATION NO. 1163 OF 2014**

Abdul Aziz Mohammed Shafi Ansari & Ors. ...Appellants
Vs.
Mrs.Khirunnissa Z. Bukhari & Ors. ...Respondents

Ms.Sindha Shreedharan i/b. Satyam Sreedharan for Appellants.
Mr.R.A. Shaikh for Respondent Nos.1 to 7.

CORAM : S.C. GUPTE, J.

25 APRIL 2017

P.C. :

Civil Application No.1163/2014 is for condonation of delay in filing the present A.O. For the reasons stated in the civil application, the civil application is disposed of by condoning the delay.

2 Heard learned Counsel for the parties.

3 Considering the record of the case and the impugned order passed by the trial court, the AO needs to be considered. Hence, **Admit.**

4 Insofar as the interim relief is concerned, there is already a Court Receiver appointed of the property, being land falling within the residential zone together with all structures thereon at village Oshiwara, Taluka South Salsette, Bombay Suburban District, bearing Survey No.41

(Part) described in prayer clause (c) of Notice of Motion No.2581/2006 to the Plaintiff's suit at City Civil Court at Bombay. As far as the other properties described in clause (2) read with Schedule 'B' of Notice of Motion No.2581/2006 are concerned, the trial court has rejected the prayer for appointment of Court Receiver on the ground that there was no evidence placed before the court by the Plaintiffs (who are Appellants before this court) that these properties belong to Defendant Nos.1 to 7.

5 Learned Counsel for the Appellants has drawn my attention to the original statement made by Defendant Nos.1 to 7 in the review application arising out of Notice of Motion No.2581/2006 that the injunction order passed by the City Civil Court at Bombay in an earlier suit between the parties on 22 February 1994 covered these properties, which belonged to the original deceased Defendant. The court is informed that this injunction order is still operating. On the other hand, learned Counsel for Respondent Nos.1 to 7 states that the earlier suit is not pending any more and that the injunction order passed on 22 February 1994 does not operate as of date.

6 It is a matter of fact that most of the Plaintiffs in the earlier suit have entered into consent terms with Respondent Nos.1 to 7 herein, though about eight Plaintiffs, including the present Appellant (original Plaintiff No.42), have not entered into any consent terms. As far as these Plaintiffs are concerned, the suit was not compromised or disposed of and the injunction order passed by the trial court continued to operate. Though the court is informed by learned Counsel for Respondent Nos.1 to 7 that all other Plaintiffs, from out of those eight Plaintiffs, have thereafter compromised the suit by accepting compensation, the person who is still

left out is the present Appellant (i.e. Plaintiff No.42). *Prima facie* it appears from the record that at least as against the Appellant herein (Plaintiff No.42), the suit continues to subsist and the injunction order continues to operate. Learned Counsel for Respondent Nos.1 to 7 submits that today, none of these properties listed out in prayer clause (2) read with schedule 'B' of Notice of Motion No.2851/2006 is owned by Respondent Nos.1 to 7. That is a matter open to debate. Anyway, in the facts and circumstances of the case, it would be in the interest of justice to direct Respondent Nos.1 to 7 to at least maintain status quo in respect of these properties as of today's date.

8 Civil Application No.1399/2014 is, accordingly, disposed of by directing Respondent Nos.1 to 7 to maintain status quo in respect of the properties described in prayer clause (ii) read with schedule 'B' of Notice of Motion No.2581/2006 as of today's date.

(S.C. GUPTE, J.)