

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

**APPEAL FROM ORDER NO. 1405 OF 2013
WITH
CIVIL APPLICATION NO.1664 OF 2013
IN
APPEAL FROM ORDER NO. 1405 OF 2013**

Shri Satish Jamnadas Dattani ...Appellant/Applicant
Versus

Shri Xavier Thomas Sirwel And Ors ...Respondents

Ms Sandhya A. Mailagir i/b Mr.Haresh Lulia for the
Appellant/Applicant.

None for the Respondents.

CORAM : M. S. SONAK, J.

DATE : 24 MARCH 2017

P.C.

1. Ms.Sandhya Mailagir who holds for advocate Mr.Haresh Lulia is present. She says that she received telephonic instructions, to seek an adjournment as advocate on record Mr.Haresh Lulia is unable to attend the Court today. From the perusal of the farad order sheet, it appears that matter was on earlier occasion placed for dismissal. Thereafter, the matter was adjourned from time to time to complete service.

2. The challenge in this appeal is to the order dated 10-10-2013 by which, the Trial Judge has declined interim reliefs to the appellant-plaintiff in a suit seeking specific performance.

3. Till date, there is no protective order in favour of the appellant. In case, any transfer is made pending the suit, then, the same will obviously be subject to the doctrine of the *lis pendens*. The suit is itself of the year 2010 and it is possible that the same is in an advanced stage. At this stage therefore, no useful purpose will be served by interfering with the impugned order. Accordingly, the request for an adjournment is declined.

4. The learned Trial Judge is directed to dispose of the main suit as expeditiously as possible and in doing so, the learned Trial Judge shall not be influenced by any of the observations made in the impugned order dated 10 October 2013. The learned Trial Judge also need not be influenced by the circumstances that this appeal is not entertained. The suit should be disposed of in accordance with law and on its own merits.

5. The appeal is disposed of in the aforesaid terms. In view of the disposal of the appeal, the Civil Application does not survive and the same is also disposed of.

(M. S. SONAK, J.)