

pdp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO. 189 OF 2017
IN
CHAMBER SUMMONS NO. 1162 OF 2016
IN
EXECUTION APPLICATION NO. 38 OF 2006
IN
COOPERATIVE CASE NO. CC/I/379 OF 1999
WITH
NOTICE OF MOTION NO. 1029 OF 2017
ALONG WITH
APPEAL NO. 190 OF 2017
IN
CHAMBER SUMMONS NO. 1167 OF 2016
IN
EXECUTION APPLICATION NO. 38 OF 2006
IN
COOPERATIVE CASE NO. CC/I/379 OF 1999
WITH
NOTICE OF MOTION NO. 1034 OF 2017

Manjulaben I. Shrimankar and anr.

.. Appellants

Vs.

Spice Islands Apparels Ltd. And ors.

.. Respondents

Mr. Vaibhav Sugdhare, Ms. Uma Aacharya and Ms. Rubina Dodhia i/by
Jayakar and Partners for appellants.

Mr. Kamal Khata i/y MLS Vani and Associates for respondent no.1.

CORAM: NARESH H. PATIL &
Z. A. HAQ, JJ.

AUGUST 08, 2017.

P.C.

1. The appellants challenge a common order dated 23/2/2017 passed in Chamber Summons Nos. 1167 and 1162 of 2016 passed by the learned Single Judge of this Court.

2. A commercial premises at 125/A Unit No. 2, 12th Floor, A-Wing, Mittal Tower Premises Cooperative Society Limited, Plot No. 210, Nariman Point, Mumbai 400 021, was attached under a decree passed by the Cooperative Court, Mumbai in a dispute bearing No. CC/I/379/1999 filed by the Mittal Tower Premises Cooperative Society Limited. The award of the Cooperative Court is dated 28/10/2004.

3. A Leave and License Agreement was executed by the appellants in favour of respondent no.1 on 27/6/1996 for a period of three years. The respondent no.1 continuous to occupy the said premises. Learned counsel for the appellants submits that respondent no.1 is a third

party to the agreement executed between the society and the appellants. The learned counsel submits that the appellants are aggrieved by observations made by the learned Single Judge in para 3 of the impugned order. The appellants apprehend that in case the premises are sold, the sale proceeds would not be appropriated in just manner.

4. The learned counsel appearing for the respondent no.1 submits that the learned Single Judge has not adjudicated any issue. Only submissions of the parties were recorded by the learned Single Judge. Therefore, the apprehensions expressed by the appellants are unfounded.

5. We have perused the record and the impugned order. We do not find that the learned Single Judge has adjudicated any issue. The substantive proceedings of execution are still pending. Appropriate issues would be dealt with by the court at proper stage. The parties are at liberty to raise respective pleas at an appropriate stage.

6. Without expressing any opinion on merits, both the appeals are disposed of.

7. Notice of Motion No.1029 of 2017 and Notice of Motion No. 1034 of 2017 do not survive and stand disposed of.

(Z. A. HAQ,J.)

(NARESH H. PATIL,J.)