

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER No. 758 of 2014
WITH
CIVIL APPLICATION No. 922 of 2014
IN
APPEAL FROM ORDER No. 758 of 2014

Kashibai Kamlakar Bhandari & Ors ..Appellants.

Vs

Manjula Parshuram Bhandari & Ors ..Respondents.

Mr. Amit A. Tungare for the appellants.
Mr. Mahesh V. Rawool for the Respondents.

CORAM : M.S. SONAK, J.
DATE : 13th August, 2018.

P.C.:-

- 1) Heard learned Counsel for the parties.
- 2) The challenge in this appeal is to the order dated 24th June, 2014 passed by the learned Trial Judge dismissing the plaintiffs' Notice of Motion No. 1233 of 2011 in Suit No. 3487 of 2011 seeking inter-alia for appointment of Court Receiver pending the disposal of the suit.
- 3) There is no dispute that as of today there is a Court Receiver appointed in respect of the suit property. However, there are

orders made by this Court which direct the Court Receiver not to take any further steps pursuant to his appointment as Receiver.

4) On 1st August, 2014, this Court made the following order :-

1. *Mentioned. Not on board. At the request of learned counsel for the appellant, the matter is taken on board for urgent orders.*

2. *By this Appeal from Order the Appellant original Plaintiff challenges order dated 24th June 2014 passed by the Bombay City Civil Court, Mumbai in Notice of Motion No.1233 of 2011 dismissing the Appellant's Notice of Motion and vacating ad-interim order dated 23rd June 2011 by which the Court Receiver was appointed in respect of the suit property.*

3. *Considering this fact, Office is directed to issue notice before admission to the Respondents, returnable on 25th August 2014.*

5. *In addition to usual mode of service, the Appellant is directed to serve the Respondent by way of private notice either by RPAD and/or by hand delivery and to file an Affidavit of service to that effect on or before next date.*

6. *The Appellant is directed to remove office objections on or before 20th August 2014 failing which the Appeal from Order shall stand dismissed without further reference to the court.*

7. *Ad-interim relief order 23rd June 2011 passed by the Trial Court to continue till next date.*

5) On 27th August, 2014 this Court made the following order :-

1. Not on Board. At the request of Mr. Tungare, taken up in Production Board. Heard Mr. Amit Tungare, learned counsel for the appellants, Mr. Omar Shaikh, learned counsel for Respondents no.2 and 7 and Mr. P.B.Shah, learned counsel for respondent no.4.

2. List the Appeal for admission on 30.9.2014. In the meantime, the ad-interim order dated 1.8.2014 shall remain in force. In the meantime, Receiver shall not proceed further in pursuance of the impugned order.

5) Thus, in effect, there is a Receiver appointed in respect of the suit property. However, the Receiver, has not taken any further steps in relation to the suit property. The suit is itself of the year 2011. In such circumstance, the interest of justice will be met if the learned Trial Judge is directed to dispose of the suit on merits, as expeditiously as possible and in any case within a period of 18 months from today. In the meanwhile, the arrangement which keeps today will continue to operate without prejudice to the rights and contentions of both the parties.

6) The appeal is accordingly disposed of in the aforesaid terms. There shall be no order as to costs.

7) Pending Civil Application, if any, does not survive and the same stands disposed of.

(M.S. SONAK, J.)