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

**APPEAL FROM ORDER (STAMP) NO. 22702 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO. 22703 OF 2018
IN
APPEAL FROM ORDER NO. 22702 OF 2018**

Hirabai Maruti Shinde & Anr.	.. Appellants
Vs.	
Mrs. Dhanashri Balasaheb Sanap	.. Respondent

Mr. Vijay S. Gharat for the Appellants.

CORAM : K. K. SONAWANE, J.
DATE : 8th AUGUST, 2018.

P. C. :

1. Not on board. Upon mentioning taken on board.
2. Heard learned Counsel for appellants. Perused appeal and other relevant documents produced on record.
3. The present appeal is directed against the impugned order passed by the learned Trial Court on 13.06.2018 directing to close evidence of the defendants by forfeiting their right to lead evidence. Being dissatisfied with the impugned order passed by the learned Trial Court, the appellants-defendants rushed to this Court and preferred the present appeal.
4. Learned Counsel for the appellants vehemently submits that the learned Trial Judge did not appreciate the circumstances on record in its proper perspective and committed error in direction to close the evidence of the defendants by forfeiting their right to lead evidence into the matter.

The learned Trial Judge did not appreciate that the defendants were intending to file Notice of Motion for setting aside the order dated 03.03.2015. According to learned Counsel for the appellants-defendants, the matter pertains to the immovable property and therefore reasonable opportunity needs to be given to the appellants-defendants in the interest of justice to lead evidence in this matter.

5. Having given anxious consideration to the argument advanced on behalf of learned Counsel for the appellants, it appears that the present appeal is nothing but a placebo device to lull the proceeding pending before the learned Trial Court. The circumstances on record adumbrates that there are no error in the impugned order passed by the learned Trial Judge. It would justifiable to re-produce the impugned order of the learned Trial Court which is the subject matter of the present appeal.

*“The record shows that the defendants were granted last chance to file evidence on 19.03.2018. Despite lapse of about 3 months, the defendants are not filing evidence today. Ld. Counsel for defendant is seeking adjournment on the ground that the defendants want to file a notice of motion for setting aside the order dated 3.3.2015. Hence evidence of defendants is closed.
Matter adj. For Final Arguments to 09.08.2018.”*

6. The scrutiny of the aforesaid impugned order categorically reflects that the three months time was granted to the appellant to lead the evidence into the matter. The learned Trial Court also given warning as last opportunity till 19.03.2018 for the defendants to take requisite steps to

adduce evidence into the matter. But there was no response received from the appellants. The attending circumstances constrained the learned Trial Court to pass the impugned order in the interest of justice to avoid further judicial delay into the matter for its adjudication on merits. The conduct and demeanor of the appellant indicate that the appellant-defendants attempted to adopt dilatory tactics to protract the matter. The impugned order passed by the learned Trial Court appears to be just, proper and reasonable. Therefore, the impugned order needs no interference. There is no propriety to proceed further into the matter for detail hearing on merits after issuing notice to the respondents. Therefore, at the threshold only the present appeal being devoid of merits deserves to be dismissed. Accordingly, the appeal stands dismissed. No order as to costs.

7. In view of dismissal of appeal, the civil application does not survive and stands disposed of.

Arjun
Machhindra
Kadam

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by Arjun
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[K. K. SONAWANE, J.]