

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER st. NO.27446 OF 2017

with

**CIVIL APPLICATION NO.947 OF 2017
IN
APPEAL FROM ORDER st. NO.27446 OF 2017**

with

**CIVIL APPLICATION st. NO.27449 OF 2017
IN
APPEAL FROM ORDER st. NO.27446 OF 2017**

Laxman Piraji Shingte

... Applicant

Vs.

Smt.Harsha Vilas Mhatre & Ors.

... Respondents

Mr.Shreepad Murthy with Rima Oke i/b Abhishek Patil for the
Applicant

Mr.Abhay L. Patki for Respondent Nos.1 to 5

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: FEBRUARY 21, 2018

P.C.:

1. This Appeal from Order is directed against the order dated 27.6.2017 passed by the learned Judge of the City Civil Court thereby making absolute the ad-interim order dated 25.1.2012 in Notice of Motion No.68 of 2012 in S.C. Suit No.130 of 2012. By the

said order, the Motion was disposed of. The appellants/defendants, therefore, have come in appeal challenging the said order.

2. The plaintiffs had filed the suit initially for permanent injunction and thereafter by way of amendment, they added the prayer for declaration that the registered conveyance deed dated 21.11.2002 and the consent decree dated 21.11.2002 in Suit No.7370 of 2002 be declared null and void and set aside. The appellants/defendants have filed Suit No.7370 of 2002 for injunction in respect of the suit land for which the parties have entered into agreement for consideration of amount of Rs.6 lakhs. The said suit was decreed pursuant to the consent terms and the parties have executed a registered conveyance on 21.11.2002. As per the learned Counsel for the appellant in the said suit, the appellants have claimed that they are in possession of the suit land and pursuant to the consent terms, the conveyance was executed.

3. Per contra, the learned Counsel for the respondent/plaintiff in pending suit has submitted that the respondents are still in possession of the suit land but they are challenging the consent decree and also registered deed of conveyance.

4. Heard submissions at length; so also, I have gone through the order passed by the learned Judge of the City Civil Court granting ad-interim relief by directing both the parties to maintain status quo. The said reasoned order is not challenged before this Court since 2012 and in 2017, the order of confirming the said ad-interim relief, has been challenged in this appeal. I am informed that the appellants have filed affidavit in lieu of examination in chief and now, the witness is to be crossexamined. Thus, as on today, the suit is part heard. Considering the stage of the trial and when both the parties are claiming possession of the suit land, it is appropriate to keep the ad-interim order of status quo in force.

5. The trial Court to take note that the plaintiff has sought declaration that the consent terms dated 21.11.2002 are to be declared void and are not binding on them. The consent terms were recorded before the Court. Therefore, the trial Court will have to consider the evidence and look into the facts of the matter which is a very serious matter. The trial Court has decreed the said suit on the basis of the consent terms dated 21.11.2002. The trial Court to proceed with the matter and shall dispose of the suit within a period of six months.

6. Parties to cooperate with the trial Court.
7. The Appeal is disposed of accordingly. Civil Applications also stand disposed of.

(MRIDULA BHATKAR, J.)