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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER No. 1090 OF 2014
WITH
CIVIL APPLICATION No. 1315 OF 2014

Sumit Ganpatrao Bachewar ... Appellant
Vs.
Kamlakar Harishchandra Khot & Ors. ... Respondents

Mr. P. K. Dhakephalkar, Sr. Counsel a/w Ajay Patil, for the Appellant.

Mr. Sumit Kothari, for the Respondent No. 5.

Mr. Rohit P. Sakhadeo, for Respondent No. 6.

Mr. Shreekant V. Gavand a/w Ms. Savita Yadav, for Respondent Nos. 1 and 3.

CORAM : V. M. DESHPANDE, J.

DATE : JUNE 25, 2018

PC :-

1. Heard learned senior counsel for the Appellant, learned counsel for Respondent Nos. 1 and 3, learned counsel for Respondent No. 5 and the learned counsel for Respondent No. 6.

2. Learned senior counsel for the Appellant invited my

attention to the impugned order, which is passed by the learned Jt. Civil Judge, S. D. Panvel in Special Civil Suit No. 495 of 2010 on 14.10.2014. From the same, it is clear that in a suit for specific performance of contract filed on behalf of the present Appellant in the year 2010, the appellant moved an application under Order 39, Rule 1 and 2 of the Code of Civil Procedure for grant of temporary injunction (exhibit 5) and the same is rejected by the impugned order. Since the suit is pending, learned senior counsel fairly states that the purpose of the plaintiff can be fulfilled if the directions are given to the learned court below to decide the suit expeditiously. He also submits that there is another suit, viz. Special Civil Suit No. 135 of 2012 pertaining to the same property between the same parties. Therefore, he submits that a direction be given that Special Civil Suit No. 135 of 2012 be disposed of alongwith Special Civil Suit No. 495 of 2010. Learned counsel for the respondents has no objection for this innocuous prayer made on behalf of the appellant. Hence, the following order:

- (i) Appeal is disposed of as withdrawn with no order as to costs, as prayed by the appellant;
- (ii) The impugned order dated 14.10.2014 passed in Special Civil Suit No. 495 of 2010 by the trial court is hereby confirmed;
- (iii) The learned Jt. Civil Judge, S. D. Panvel is directed to dispose of Special Civil Suit No. 495 of 2010 alongwith Special Civil Suit No. 135 of 2012 as expeditiously as possible by giving opportunity of hearing to all the parties in both the suits, on merits and in accordance with law;
- (iv) Needless to state that all pending applications filed in this appeal shall stand disposed of.

Sd/-
[V. M. DESHPANDE, J.]

Vinayak Halemath