

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**APPEAL NO.437 OF 2018
IN
NOTICE OF MOTION NO.1369 OF 2018
IN
SUIT NO.790 OF 2018**

**Zenobia R. Poonawala
(Nee Ginwala) and another ..Appellants
Versus
Farhad Ginwala and others ..Respondents**

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**Mr. Anjal Amin I/by M/s. B. Amin & Co., Advocate for the
Appellants/Applicants.
Mr. Sameer Pandit I/by M/s. Wadia Ghandy & Co., Advocate for
the Respondents.**

**CORAM : B. R. GAVAI &
RIYAZ I. CHAGLA, JJ.
DATE : 19th NOVEMBER, 2018**

P.C.

1] The Appeal challenges the order passed by the learned

Single Judge dated 25th April 2018, vide which the learned Single Judge has injuncted the Appellants, who are defendant Nos.1 and 2, from taking any photographs or doing video recording of the Plaintiffs and/or any of their family members, guests or servants. By the said order, the learned Single Judge also allowed the Plaintiffs to remove CCTV cameras, which are installed over the main entrance of Flat Nos.5 and 6 on the second floor of Rutton Manor, in which Plaintiff Nos.2 to 5 are residing. However, by the same order, in order to ensure that the concern of the security of the building is taken care of, the Learned Single Judge has directed that the Plaintiffs shall get CCTV cameras installed as suggested by the Span Systems initially at their costs. The learned Single Judge has further permitted the Defendants to put CCTV cameras in the manner they deem fit on the fourth floor where the flat in their occupation is situated.

2] Learned counsel for the Appellants submits that the Appellants are the owners of the building and in order to ensure the security of the building they are entitled to put the security cameras so that any danger to the security of the building is avoided.

3] It is an unfortunate litigation on account of family feud between the parties. Undisputedly, the Plaintiff No.1 is the father of the Defendant No.1 and Defendant No.2 is the husband of Defendant No.1. The Plaintiff No.2 is the brother of Defendant No.1, whereas the son of Plaintiff No.1. The Plaintiff No.3 is the wife of Plaintiff No.2 and daughter-in-law of Plaintiff No.1. The other two Plaintiffs are the minor children of Plaintiff Nos.2 and 3. The Plaintiffs are residing in Flat Nos.4, 5 and 6 situated on first, second and third floor, whereas the Defendants are residing in Flat No.9 on the fourth floor. The Defendant Nos.1 and 2 had installed the video cameras on all the four floors of the building in question. The Plaintiffs therefore filed the suit claiming that the video cameras installed at the entry points of the flats occupied by the Plaintiffs were invading privacy of the Plaintiffs and they should be removed. When the matter was listed on 25th April 2018, a statement was made on behalf of Defendant No.1 that she will not take photographs or do video recording of the Plaintiffs and/or any of their family members. Subsequently, by an elaborate order dated 2nd May 2018, the learned Single Judge has passed an order as aforesaid, granting an order of injunction. Being aggrieved thereby,

the present Appeal.

4] Learned counsel for the Appellants submits that it is necessary for ensuring the security of the building that the Defendants should be permitted to install video cameras on all the floors in the building. It is submitted that if that is not done, security of the building would be at stake. He further submits that police complaints were made to the effect that somebody had forcibly attempted to enter into the flats of the Defendants. It is therefore submitted that the order passed by the learned Single Judge needs to be set aside and the position prior to passing of the order needs to be restored.

5] We have perused the order passed by the learned Single Judge. Perusal of the order passed by the learned Single Judge would reveal that prior to passing of the order, learned Single Judge had directed Mr. Sameer Pandit, advocate from Wadia Ghandy and Company, appearing for the Plaintiffs and Mr. Amin, advocate appearing for the Defendants to visit the suit premises alongwith technician from the Span System. Learned Single Judge has considered the report of one Mr. Chirag Dhakkan, technician from

Span System. After considering the said report, learned Single Judge had found that for ensuring safety of the building, it was sufficient if the CCTV cameras are installed at the entry and exit points of the building. In so far as the security of the flat in which the Defendants were occupying, learned Single Judge found that it was sufficient if the CCTV cameras are installed on the fourth floor, wherein the Defendants are residing. Learned Single Judge has on the basis of the report of technical expert come to a considered conclusion that installing of the CCTV cameras at the entry points of the flats occupied by the Plaintiffs is nothing else but invading privacy of the occupants of the said flats i.e. Plaintiffs.

6] At the cost of repetition, we say that it is an unfortunate family feud leading to such a litigation. Perusal of the impugned order would reveal that Learned Single Judge has taken due care to ensure that safety of the building is taken care of by permitting CCTV cameras to be installed at the entry and exit points of the building. Learned Single Judge has further directed that CCTV camera be installed on the fourth floor, wherein the Defendants are residing. Interference in the order passed under Order XXXIX Rule 1

and 2 would be warranted only when the Trial Judge has not followed the principles of prima-facie case, balance of convenience and irreparable loss.

7] In our considered view, the learned Single Judge, after elaborate exercise, has taken care to ensure that all these three principles are followed while passing an order of injunction. While passing the order, learned Single Judge while ensuring security of the building has passed an order which will protect the privacy of the Plaintiffs. In that view of the matter, no case is made out for interference. The Appeal is dismissed.

8] In view of disposal of Appeal, Notice of Motion No.939 of 2018 does not survive and accordingly stands disposed of.

9] Parties are at liberty to apply to the learned Single Judge for expeditious disposal of motion, which prayer to be considered by the learned Single Judge in accordance with law.

[RIYAZ I. CHAGLA, J.]

[B. R. GAVAI, J.]