

Tikam

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

APPEAL FROM ORDER No.399 OF 2019
WITH
CIVIL APPLICATION 472 OF 2019

Dharmendra Gorakhnath Mishra and Anr.

...Appellants/
Org. Plaintiffs

Vs.

Akhilesh Brigunath Mishra and Anr.

...Respondents/
Org. Defendants

Mr. A.B. Mishra for Appellants

Mr. Piyush M. Shah a/w. Mr. S.B. Dhotre for Respondent Nos.1 and 2.

CORAM : SHRI K.K. TATED, J.

DATE : MAY 02, 2019

P.C.:

1. Heard learned counsel for the parties.
2. By this Appeal from Order, the Appellants/ Original Plaintiffs are challenging the order dated 21st January, 2019 passed by the Bombay City Civil Court at Bombay dismissing the Appellants' / Original Plaintiffs' Notice of Motion No. 4279 of 2016 in Suit No. 647 of 2016.
3. After arguing some time, both the counsels filed consent minutes of order dated 2nd May, 2109, which has been duly signed by Appellant No.2 and Respondent No.1 along with their respective advocates.
4. Learned counsel Mr. Piyush Shah appearing on behalf of the Respondent Nos.1 and 2 submits that they have no objections if the civil application filed in Appeal from Order is allowed in terms of prayer clause (c). He further submits that considering the facts and

circumstances of the present case, hearing of the Short Cause Suit No. 647 of 2007 be expedited.

5. By consent of both the parties, the following order is passed.

ORDER

(A) Minutes of Order dated 2nd May, 2019 is taken on record and marked 'X' for the purpose of identification. Same reads thus:

“Minutes of Order

1. It is amicably settled between the parties that Appeal may be disposed off with the statement of Respondents that prayer clause (c) of Civil Application above be granted and matter may be expedited to decide before 2021.

2. In view of the amicable settlement the Appeal and Civil Application may be disposed of.”

(B) Civil Application is allowed in terms of prayer clause (c), which reads thus:

“c) That pending hearing and final disposal of the suit this Hon'ble Court be pleased to pass the temporary order injunction thereby restraining the Defendants themselves through their servants, agents, person, persons, assigns claiming through or under them from dealing, disposing, part with possession, let sublet, lien, mortgage and/or creating third party right in respect of the “Said Pan Shop” and premises bearing No.22/23 situated at Ground Floor, Off: Farida Estate 29-29B-29C, Sonapur Street, Shrikant Palekar Marg, Chira Bazar, Mumbai – 400 002.”

(C) Applicant is permitted to carry out amendment in Civil Application. Amendment to be carried out during the course of the day.

(D) Hearing of Short Cause Suit No. 647 of 2016 is expedited.

- (E) This Court expects that the Trial Court shall decide the Short Cause Suit No. 647 of 2016 on its own merits, as early as possible in any case, on or before December, 2021.
- (F) Appeal from Order as well as Civil Application stand disposed of accordingly.
- (G) No order as to costs.

[K.K. TATED, J.]

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