

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

CIVIL APPLICATION NO.1031 OF 2019
WITH
APPEAL FROM ORDER (ST.) NO.13028 OF 2019

Smt. Lalita Arvind Kothari ... Applicant/Appellant
Versus
Shri Ilesh Arvind Kothari
And Others ... Respondents

Mr. Umesh Tawari a/w Ms. Hetal Vithlani i/b Ahwinikumar & Co. for the Applicant/Appellant.
Ms. Darshana Gangar for Respondent No.1.

CORAM : S.C. GUPTE, J.

DATE : 3 SEPTEMBER 2019

P. C. :

. Learned Counsel for Respondent No.1 tenders her reply together with her vakalatnama. For the reasons stated in the civil application, the delay is condoned and the Appeal from Order is taken up for admission and heard forthwith by consent of counsel. The civil application is allowed accordingly.

2 This appeal from order challenges an order passed by the City Civil Court, Dindoshi on an interlocutory application of the Appellant (original defendant no.1) in the suit. Respondent No.1 herein (original plaintiff) has filed the present suit for a declaration that he is entitled to one third undivided share in the suit premises, which consists of

Flat No.C-3/001, Yogi Darshan CHSL, Yogi Nagar, Borivali (West), Mumbai-400 001. In that suit, Respondent No.1 prayed for perpetual injunction restraining the Appellant herein from obstructing or disturbing his occupation or possession of the suit premises. Respondent No.1, however, chose not to take out any notice of motion or pray for interim relief. It was the Appellant, who moved instead an application by way of a notice of motion, seeking an order for appointment of Court Receiver as well as injunction restraining Respondent No.1 from creating any third party right as also requiring him to maintain her as per Maintenance and Welfare of Parents and Senior Citizens Act, 2007. It was the grievance of the Appellant that she was not allowed to occupy the suit premises and as a result, had to live with her relation. By the impugned order, the notice of motion was dismissed by the trial court.

3 At the hearing of the present Appeal from Order, it is agreed between learned counsel for the parties, on taking instructions from their respective clients, that Respondent No.1 shall allow the Appellant to use the suit premises along with himself and his family members. It is also agreed by Respondent No.1 that any and every assistance the Appellant needs *vis-a-vis* her health shall be provided by Respondent No.1.

4 So far as the suit of Respondent No.1 is concerned, the matter appears to have been referred to a mediator by the trial court. The parties agree to go before the mediator and seek to resolve their

disputes through mediation. Time granted originally to the mediator for submitting mediation report is extended upto 4 October 2019.

5 The Appeal from Order is disposed of accordingly.

(S.C. GUPTE, J.)