

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

APPEAL FROM ORDER NO.585 OF 2014

WITH

CIVIL APPLICATION NO.707 OF 2014

IN

APPEAL FROM ORDER NO.585 OF 2014

M/s. HBS Realtors Pvt. Ltd.

...Appellants

Versus

Kumar Chandravadan Pathak and

Ors.

...Respondents

.....

Mr. N. Dave with Mr. Hiren Shah I/b. M/s. Prakash and Co. for the Appellants.

Ms Rekha Shinde I/b. M/s. Legal Chartered for the Respondent No.1.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 4th MARCH, 2019.

P.C.:-

1. Arguable points are raised. Appeal from order is **admitted**. Ms Rekha Shinde, learned counsel waives service on behalf of respondent no.1.

2. Paper book to be filed within a period of one year from today.

3. Parties were also heard on interim relief. By the impugned order, dated 17/04/2014 in Notice of Motion No.1954 of 2013, the learned Judge of City Civil Court, Greater Bombay has restrained the

appellants-defendants from taking forcible possession of the suit shop No.01 and/or dispossessing the plaintiff from suit shop in any manner whatsoever and/or disturbing the peaceful possession and occupation of the suit shop and the land appurtenant to the suit shop.

4. The dispute is in respect of the suit shop and the land appurtenant to the suit shop. One Mr. Avneed Goel, Assistant Vice-President of Defendants had made a statement before the Trial Court, as recorded in the impugned order, that the Defendants will not dispossess or disturb possession of the Plaintiffs over the suit shop. The learned counsel for the Appellant-defendant submits that the Appellants will adhere to and abide by the said statement and further that the Appellants will not obstruct the access of the plaintiff-respondent to the suit shop, till disposal of the appeal. Statement is accepted.

5. The land appurtenant to the shop admittedly belongs to MHADA, who is not party to the suit. The learned counsel for the Respondents also concedes that, as on date MHADA has not executed any documents in favour of the Respondent relating to the land appurtenant to the suit shop. Prima facie the Respondent -Plaintiff has

not been able to prove his right, title and interest in respect of the land appurtenant to suit shop. Under the circumstances, execution and implementation of the impugned order, so far as it relates to the land appurtenant to the suit shop, is stayed till the disposal of the appeal.

6. Civil application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)