

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

APPEAL FROM ORDER NO. 735 OF 2019

Lina Y. Maneklal

...Appellant

VS.

Mr.Ashutosh Y. Maneklal & Ors.

...Respondents

Dr.Birendra Saraf with Apurva Thipsay and Gauraj Shah i/b. Ashok Purohit & Co. for Appellant.

Mr.Rohit Kapadia with Farhan Dubash, Anosh Sequeira, Robin Fernandes and Kayomars Kerawalla i/b. Vesta Legal for Respondent No.1.

Mr.Amogh Singh i/b. RMG Law Associates for Respondent No.2.

CORAM : S.C. GUPTE, J.

DATE : 18 SEPTEMBER 2019

P.C. :

This appeal from order challenges an ad-interim order passed by the City Civil Court at Bombay on the notice of motion of the Appellant (original Defendant No.1 in the suit before the City Civil Court). After the matter is heard at length for some time, it is agreed between the parties that the appeal from order may be disposed of in terms of the following order.

2 It is, accordingly, ordered as follows :

(I) The impugned order of the City Civil Court is quashed and set aside and the matter is remanded to the City Civil Court at Bombay for a fresh hearing on the notice of motion, being Notice of Motion No.1182/2019. It is made clear that this notice of motion has to be decided on its own merits. None of the orders passed by this court so far

in the litigation between the parties come in the way of the City Civil Court entertaining and hearing the notice of motion. All rights and contentions of the parties, however, on merits are kept open.

(II) By way of clarification, it is particularly observed that the original restrictive order passed by this court in Appeal from Order No.1375/2013 on 20 December 2013 does not in any way restrict the City Civil Court's jurisdiction or power to decide Notice of Motion No.1182/2019 on its own merits. It is also clarified that the notice of motion may be disposed of expeditiously without awaiting any decision on any other pending matter/s before the City Civil Court in the pending suit.

(III) In case the Respondents to the notice of motion propose to file any further affidavit in reply to the motion, they must do so within a period of one week from today. If the Applicants in the notice of motion propose to file any rejoinder, they must do so within a period of one week thereafter. The parties must strictly keep this timeline and under no circumstances, an application for adjournment on behalf of any of the parties would be entertained.

(IV) The City Civil Court is requested to dispose of the notice of motion, as expeditiously as possible and preferably within a period of six weeks from the date of filing of a rejoinder of the Applicant, if any, as above.

3 At this stage, the parties may only fondly hope that the Municipal Corporation shall not go ahead with any coercive steps and

allow their motion to be disposed of by the City Civil Court, since the whole idea of the notice of motion is to pay the property taxes of the Corporation.

(S.C. GUPTE, J.)