

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

APPEAL FROM ORDER (St) NO.19579 of 2019
with
CIVIL APPLICATION NO.19580 OF 2019
in
SPECIAL CIVIL SUIT NO.935 OF 2019

Anant Machinery Private Limited .. Appellants
vs
Maharashtra Industrial Development
Corporation & ors .. Respondents

Ms.Deepa Chavan with Mr.Y.V.Divekar and
Ms.Reshmarani Nathari I.b M/s Divekar & Co for Appellants
Mr.Siddesh Bhole with Ms.Niyati Shah,
Ms.Aparva Manwani I.b M/s Haresh Jagtiani & Associates for
Respondent nos.6 & 7 .

CORAM : M.S.KARNIK, J
DATE : 22nd JULY, 2019

P.C

1. Heard learned counsel for the Appellants and learned counsel appearing for Respondent nos.6 and 7 and learned counsel for Respondent no.9.

2. A grievance is made by the learned counsel for the Appellants that subject plots which were sub-leased to the Appellants, from these plots, the Appellants have been forcibly dispossessed. It is her contention

that originally, the lease was in favour of M/s Sardesai and Company who had sub-leased these plots to the Appellants. In the Suit, an application at Exhibit 5 is filed by the Appellants for temporary injunction. On 4.7.2019, the trial Court issued notice to the Defendants and fixed the date of hearing on 10.7.2019. On 10.7.2019, the Appellants approached the trial Court for considering the reliefs made in Exhibit 5 Application and prayed that at least consider granting ad-interim relief in favour of the Appellants/Original Plaintiffs. It appears that the said Application is rejected.

3. One of the reason for rejection, appears to be that some of the Defendants are yet to be served with the notice. Learned counsel for the Appellants makes a grievance that MIDC has not chosen to appear before the trial Court despite service of private notice. Even in respect of the present Appeal from Order, the Respondent-MIDC has not appeared despite service of private notice.

4. It is the contention of the learned counsel for the Respondent no.9 that they are the original leasees of the plots of land. It is the contention of the learned counsel for the Appellants, that forcible

possession was taken by Respondent No.9 which the learned counsel for Respondent no.9 disputes.

5. Be that as it may, a prayer for grant of ad-interim relief has been made by the Plaintiffs before the trial Court. The main contention of the Plaintiff is that MIDC have failed to file their appearance before the trial Court.

6. Considering that the MIDC is not appearing in the matter despite service of private notice and having regard to the submissions made by the learned counsel for the Appellants, it would be in the interest of justice, that if the Appellants serves private notice on Defendants, and if Defendants fail to appear before the trial Court on 24.7.2019, the trial Court to consider the question of grant of ad-interim relief.

7. Learned counsel for the Appellants states that she will serve all the Defendants by private notice The Defendant nos.6 and 7 and defendant no.9 are already appearing in the matter.

8. The Appellants to serve all the Defendants by private notice

on or before 23.7.2019 as the trial Court has fixed the hearing of the matter on Exhibit 5 Application on 24.7.2019. It is made clear that upon service by private notice, if the Defendants fail to appear before the trial Court, the trial Court to proceed with the hearing of the Application made by the Appellants herein for grant of ad-interim reliefs. It is further made clear that grant of ad--interim reliefs be considered, on its own merits, and in accordance with law and the trial Judge will not be influenced by any of the observations made by me in this order.

9. All contentions of the parties, on merits of the matter are expressly kept open.

10. All concerned to act upon an authenticated copy of the order.

[M.S.KARNIK,J]