

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 13763 OF 2018

Mahesh Mohanlal Suthar

...Petitioner

Versus

Sunita Manoj Mistry
and another

...Respondents

....

Mr. R.T. Lalwani i/b. Prakash Mahadik, Advocate for the Petitioner.

Ms. Anjali Navle, Advocate for Respondent No.1.

Mr. Jignesh Shah, Advocate for Respondent No.2.

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CORAM : R. G. KETKAR, J.

DATE : 21st JANUARY, 2019

P.C.

1. Heard Mr.R.T. Lalwani, learned counsel for the petitioner, Ms. Anjali Navle, learned counsel for respondent No.1 and Mr.Jignesh Shah, learned counsel for respondent No.2, at length.

2. This Petition takes exception to the order dated 20.6.2018 passed by the learned Judge, Family Court No.3, Mumbai below Exhibit-12 in Petition No.C-28/2018. By that order, the learned trial Judge allowed the application filed by the first respondent and issued injunction restraining the petitioner and the second respondent from alienating Flat No. 214/5760, Arunodaya Darshan CHS Ltd., 90 ft. road, New Pant Nagar, Ghatkopar (East), Mumbai – 400 075 (for short, 'suit premises') or creating third party interest therein in any manner till the

disposal of the petition. The petitioner and the second respondent are also restrained from dispossessing the first respondent from or disturbing her peaceful possession over the suit premises till disposal of the main petition.

3. The petitioner and respondent No.2 are brothers. Respondents No.1 and 2 were married on 13.3.2001. Respondent No.2 is brother of the petitioner. The learned counsel for respondent No.2 states that he will file appropriate application before the trial Court suggesting suitable alternate premises for respondent No.1 as and by way of temporary/permanent accommodation during pendency of the proceedings.

4. In view thereof, Mr. Lalwani, on instructions, does not press this petition. He submits that if such an application is taken out, all contentions of the parties may be kept open and the learned trial Judge may be directed to dispose of said application in a time bound manner.

5. In view thereof, the petition is disposed of as not pressed in the following terms:

- i. Respondent No.2 is at liberty to file application before the trial Court in aforesaid terms within two weeks from today and serve copy during this period on the petitioner and respondent No.1.
- ii. Respondent No.1 shall file reply within two weeks from receipt of

the proposed application of respondent No.2 and serve copy in advance on the other side during that period.

iii. The learned trial Judge is requested to decide said application within four weeks from completion of the pleadings.

iv. All contentions of the parties are expressly kept open.

v. While disposing of the main petition finally, the learned trial Judge will pass appropriate order in relation to the order that may be passed on respondent No.2's application.

6. All concerned parties, including the trial Court, to act upon the authenticated copy of this order. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)