

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 211 OF 2015
WITH
CIVIL APPLICATION NO. 271 OF 2015

Transcon – Sheth Creators Private Ltd. .. Appellant

Vs.

Flory Olan Barratto

Since deceased

1A. Mrs.Daisy Oniel Pareira and ors. .. Respondents

Mr.Rohan Sawant a/w Ms.Riya Makwana I/b I.C. Legal, for the Appellant.

None for the Respondents.

CORAM : M.S.KARNIK, J.

DATE : 28th JUNE, 2019

P.C. :

. The order under challenge in this Appeal is dated 23/09/2014 passed by the learned Judge, City Civil Court at Mumbai, Borivali Division, Dindoshi, Goregaon, Mumbai granting ad-interim injunction restraining the appellant from obstructing the use, enjoyment, occupation and possession of the plaintiffs over the suit property till next date. It is further

recorded by the Court that service for final hearing of Notice of Motion on the defendant is waived by consent.

2. This order is in operation since 23/09/2014. Today, I am informed by learned Counsel for the appellant that the Notice of Motion is yet to be decided. In these circumstances and as ad-interim is operating from 23/09/2014, in the interest of justice, it would be appropriate to direct the trial Judge to decide the Notice of Motion itself within a period of 10 weeks from today.

3. The ad-interim order granted by the Trial Court to continue till the disposal of the Notice of Motion. It is made clear that all rival contentions of the parties are kept open.

4. Needless to mention that the learned trial Judge to decide the Notice of Motion on its own merits without in any manner being influenced by the observations made in the impugned order dated 23/09/2014.

5. Learned Counsel for the appellant submitted that the plaintiffs are not in possession. These are obviously contentions which the trial Court Judge will take into consideration after hearing both the sides. As all contentions are kept open, it is always open for the appellants to take suitable action against the plaintiffs for evicting them in accordance with law in the light of the prayer made by plaintiffs themselves in the Notice of Motion. It will obviously be ensured by the appellant that while doing so, no breach of the ad-interim order passed by the Trial Court is committed.

6. Appeal from Order is disposed of. In view of the disposal of the Appeal from Order, Civil Application No. 271 of 2015 does not survive and the same stands disposed of accordingly.

7. All office objections are dispensed with.

(M.S.KARNIK, J.)