

Tandle

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 531 OF 2019
WITH
CIVIL APPLICATION NO. 607 OF 2019
IN
APPEAL FROM ORDER NO. 531 OF 2019

Mr. Dilip G. Kurlawala

... Appellant.

Versus

Mr. Hitesh K. Shah and Anr.

... Respondents.

.....

Mr. R. P. Ojha i/by Asit Singh for the Appellant.

Mr. Bipin Joshi a/w Mr. Prayag Joshi, Uttam Rane i/b Bipin Joshi for Respondent No.1.

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CORAM : A. S. GADKARI, J.

DATE : 3rd DECEMBER, 2019P. C. :

1. By the present appeal, the appellant / original plaintiff has impugned Order dated 27th November 2018 in Notice of Motion No. 977 of 2015 in Suit No. 534 of 2015 by the learned Judge, City Civil Court, Mumbai, thereby partly allowing the Motion and refusing to grant interim relief in terms of prayer Clause (c) of the Notice of Motion. Prayer clause (c) of the Motion reads as under :-

“(c). Pending the hearing and final disposal of the suit the Hon’ble Court be pleased to restrain temporarily to the defendants from creating third party right or parting with possession of the suit premises including the additions made therein being a open plot of land with structure and 20’ X 65’ equivalent to 1.86 sq.mters x 6.04

sq.mtrs. situate at S. No. 37, Khairani Road, known as gala No.2 (i.e. open plot with structure), P. V. K. Compound, Sakinaka, Mumbai – 400 072 and Village – Mohili, Taluka-Kurla, M.S.D. Mumbai.”

2. Mr. Joshi, learned counsel appearing for the respondent No.1, on instructions, submitted that his client has already been inducted as a licensee in the suit premises. He further, on instructions submitted that, during the pendency of the said Suit No. 534 of 2015, the respondent No.1 will not create further right, title or interest or will not part with possession of the suit premises in favour of any other person. The said statement is accepted as undertaking given to this Court.

3. In view of the above, the present Appeal is disposed off.

4. In view of the disposal of the Appeal, Civil Application No. 607 of 2019 does not survive and is accordingly disposed off.

(A. S. GADKARI, J.)