

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Radhakishan
S. Ladda

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Date: 2019.07.24
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NOTICE OF MOTION NO. 122 OF 2012

IN

SUIT NO. 28 OF 2012.

WITH

NOTICE OF MOTION NO. 936 OF 2014

IN

SUIT NO. 28 of 2012

Mathilda J. Carlos & Ors

..Applicants.

In the matter of :-

Mathilda J. Carlos & Ors

..Plaintiffs.

Vs

The State of Maharashtra & Ors

..Defendants.

Mr. R.R. Sharma a/with Mr. Surya Das for the
Applicants/Plaintiffs.

Mr. S.P. Bharti, Advocate for defendant No.4.

CORAM : B. P. COLABAWALLA, J.

DATED :-23RD JULY, 2019.

P.C. :-

1. The present suit is filed for possession of land
admeasuring about 15350.50 square meters (for short
“the said land”) situated at Oshiwara Jogeshwari,

Mumbai. According to the plaintiffs, they became owners of the said land as they were in possession and cultivating the same on the Tillers Day. Thereafter, in the year 1958 they claim to have permitted defendant No.3 to cultivate the land.

2. In the year 2005 the plaintiffs filed a suit against defendant No.3 for possession of the said land in the Small Causes Court. In that suit, an application for interim relief was also made and which was rejected. I am informed that the said suit is still pending. It is also not in dispute that a part of the suit land (approximately 10,172 square meters) was acquired by the MMRDA in the year 1994 under the provisions of the Land Acquisition Act, 1894. There is no challenge to this acquisition and the order of acquisition has therefore become final.

3. The MMRDA thereafter entered into an agreement dated 15th July, 2008 with defendant No.3. Defendant No.3 has been developing the said property and almost the full development is complete. In fact, in

the ad-interim order dated 19th January, 2012, this Court itself had recorded that construction upto the extent of the 20th floor has already been completed and third party rights have been created. Looking to all these facts, I do not think that any interim order can be passed in favour of the plaintiffs. In these circumstances, both the Notice of Motions are accordingly dismissed. No order as to costs.

(B. P. COLABAWALLA, J.)