

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

APPEAL (LODG.) NO. 458 OF 2018

in

COURT RECEIVERS REPORT NO. 125 OF 2018

in

NOTICE OF MOTION (LODG.) NO. 1918 OF 2019

in

SUIT NO. 3394 OF 2008

with

COURT RECEIVERS REPORT NO. 267 OF 2018

Shyam Rochiram Godhawani

... Appellant

IN THE MATTER BETWEEN

Shyam Roachiram Godhwani

... Orig. Defendant No.1

V/s.

Mrs. Lajwanti Gopichand Godhwani & Ors. ... Respondent No.1/
Orig.Plaintiff No.1

Mr. Ramesh Chandra Mishra for the Appellant

Mr. Ajay Panicker a/w. Amit Kakri I/b. Ajay Law Assoc. for
Respondents 1 and 2.

Mr. Gauraj Shah I/b. Kanga & Co. for Respondents 3 and 4.

Ms. Khyati Pandit I/b. Dhru & Co. for Respondent 5.

Mr. D.R. Shetty, Court Receiver, High Court, Bombay present.

***CORAM : NARESH H. PATIL, C.J. &
N.M. JAMDAR, J.***

DATE: 18 January 2019.

P.C.:-

Heard learned Counsel for the parties.

2. The Appellant – Defendant No.1 has challenged the order passed by the learned Single Judge in a Notice of Motion taken out in the Court Receivers Report. The order is challenged on the premise that the learned Single Judge has decided the shares of the parties in Suit No. 3394 of 2008 to the detriment of the Appellant.

3. The perusal of the impugned order shows that the learned Single Judge has only given certain clarification in respect of payment of a statutory liability of the TDS as payable. During the hearing of this Notice of Motion in which clarification regarding payment of TDS was given, the Appellant, who was present in person sought to contend that he has 50% right in the flat in question. The learned Counsel for the Respondents pointed out that this issue stands decided against the Appellant up to the Supreme Court. Reference was made to the order passed by the learned Single Judge on 15 November 2017, and this order is also confirmed in Appeal by order dated 19 September 2018. The learned Single Judge was right in observing that the Appellant cannot rake up the issues which are concluded, whenever the matter comes up on the board. The impugned order passed is only in

respect of payment of TDS, and as far as the issue now sought to be raised by the Appellant regarding his right, the impugned order does not decide the same, but the learned Single Judge has only referred to the earlier orders passed which concludes the issue against the Appellant.

4. In these circumstances, there is no merit in this Appeal, apart from the fact that the Respondents have objected that the Appeal is not maintainable as the impugned order does not decide any right of the Appellant. The Appeal is accordingly dismissed.

N.M. JAMDAR, J.

CHIEF JUSTICE