

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO. 227 OF 2021
WITH
INTERIM APPLICATION NO. 2144 OF 2021**

Mohd. Mustaqeem s/o.Mohd Naseer Khan ... Appellant
V/s.
Mohd. Mustafa s/o. Mohd. Naseer Khan & Ors. ... Respondents

Mr.A.N. Nasikwala for Appellant.
Mr.VR. Tripathi for Respondents.

CORAM : A.S. GADKARI, J.
DATE : 2nd December 2021.

PC. :

1. Appellant-Original Plaintiff has impugned Order dated 2nd August 2021 in Notice of Motion No.1499 of 2021 in S.C. Suit No.1234 of 2021 passed by learned Judge, City Civil Court, Gr. Mumbai.
2. Heard learned counsel for the respective parties.
Perused record.
3. Record indicates that, Appellant-Original Plaintiff has filed Suit with the following main prayer, as pleaded in Clause (a) of para No.20, of the said Plaint :-

“(a) That it be declared by this Hon’ble Court that the Plaintiff is the lawful occupier of the premises being a structure

admeasuring 17/24 sq.ft. or thereabout lying, being and situated at Prem Nagar, LBS Nagar, Sion, Mumbai – 400 022, which premises described in the Plaintiff's Aadhar Card, Election Identity Card as Room No. 238, Prem Nagar, LBS Nagar, Near Amber Hotel, Sion (W), Sion, Mumbai – 400 022.”

4. The Conducting Agreement dated 27th October 2020 pertains to a shop premises situated at Shop No.593, Near Haddi Gala, Opp. S.T.D., Sion Prem Nagar, Agra Road, ZO-238, Dharavi, Sion, Mumbai – 400 022. The injunction which is sought by the Appellant is in respect of a totally distinct and separate property than what has been mentioned in the Conducting Agreement.

5. Hence, according to me, no prima-facie case is made out by the Appellant to interfere with the impugned Order dated 2nd August 2021 passed in Notice of Motion No.1499 of 2021 in S.C. Suit No.1234 of 2021.

6. Appeal is accordingly dismissed.

7. In view of dismissal of Appeal, Interim Application No. 2144 of 2021 does not survive and is accordingly disposed off.

[A.S. GADKARI, J.]