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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 518 OF 2022
IN
INTERIM APPLICATION NO. 3206 OF 2022

Tara Gayaprasad Singh

Appellant

.. (Orig. Defendant No.7)

Versus

Bagedu Bekaru Kewat And Ors.

.. Respondents

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- Mr. Atul Damle a/w. Mr. Mohit Jadhav and Ms. Megha Shigavan Advocates for the Appellant.
 - Mr. Puneet Shukla a/w. Mr. Manoj Singh i/by MKS Legal Associate for Respondent No.1
 - Mr. Sanjay Tiwari, Advocate for the Respondent Nos.2 to 8.
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CORAM : MILIND N. JADHAV, J.

DATE : MAY 13, 2022
(Vacation Court)

P.C.:

- 1.** Heard learned counsel appearing for the respective parties.
- 2.** The present Appeal From Order is directed against the order dated 06.05.2022 passed by the learned Trial court in Draft Notice of Motion filed in Suit No.945 of 2022 by the Appellant (Defendant No.7), whereby ad-interim relief is allowed. The Appellant (Defendant No.7) alongwith Defendant Nos.1 to 3 and 5 in the suit have been temporarily restrained from obstructing the Plaintiffs who are in possession of the suit premises till the next date of hearing and the matter has been adjourned to file reply to the Notice of Motion and is

to be heard on 10.06.2022 by the Trial court. All parties in the Trial court are present before the Court today and claim to be in physical possession of the suit property i.e. Shop No.2 situated at Sainath Road Municipal Mandai (W), Mumbai - 400 064.

3. A joint request is therefore made by the counsel appearing for the parties to the Court for appointment of Court Commissioner to visit the suit property and ascertain the status of possession of the suit property, as it will aid the learned Trial court in passing appropriate final order in the pending Notice of Motion. The request made is fair and deserves to be granted.

4. The Court Receiver, High Court of Bombay is appointed as Commissioner to visit the suit property and ascertain the status of possession and the party in possession of the suit property and make an appropriate report and file the same in a sealed cover before the learned Trial court. The Commission shall be executed within a period of four weeks and the report shall be submitted to the Trial court before 09.06.2022. Parties present before the court today shall deposit the charges of the Commission with the Court Receiver equally as and when called for by the Court Receiver.

5. The learned Trial court shall peruse the report and decide whether a copy of the report is to be given to the respective parties

before the Trial court and only thereafter finally decide the pending Notice of Motion filed by the Appellant (Defendant No.7). The Notice of Motion in Suit No. 1033 of 2022, which is filed by the present Appellant before the trial court be heard and decided on its own merits, without prejudice to the rights and contentions of both the parties".

6. In view of the above directions, Appeal From Order stands disposed of.

[MILIND N. JADHAV, J.]

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