

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 49 OF 2019
IN
NOTICE OF MOTION NO. 979 OF 2018
IN
S.C. SUIT NO. 526 OF 2018

ALONGWITH
CIVIL APPLICATION NO. 62 OF 2019

Vijay Bahadur Srinath Patel ...**Appellant**
Vs.
Ramsajivan Srinath Patel ... **Respondent**

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Mr. A.A. Siddiqui i/by. M/s. A.A. Siddiquie & Associates,
Advocate for the Appellant.

Mr. Piyush Deshpande i/by. Mr. Yash Jariwala, Advocate
for Respondent no.1.

CORAM : SANDEEP K. SHINDE J.

DATE : MONDAY, APRIL 18, 2022.

P.C.:

1. Pending Notice of Motion No. 979/2018 taken out in S.C. Suit No.526/2018 the learned trial Court vide order dated 19th August, 2018 declined to restrain the defendant from creating

third party rights in the suit property. Feeling aggrieved by that order, plaintiff has preferred this Appeal under Order 43 Rule 1(r) read with Section 104 of the Civil Procedure Code. Plaintiff's claim, of his exclusive possession in the suit property, is founded on document dated 16th January, 2002. Yet, indisputably, plaintiff and defendants are in joint possession of the suit property. At any rate, this Appeal is directed against the order, refusing the ad-interim relief, that was passed in April, 2018 and since then, no relief has been granted by this Court. In the circumstances, it would be appropriate and expedient, to request the trial Court to dispose of, Notice of Motion No. 979/2018, preferably before 31st October, 2022 without being influenced, by the impugned order and this order. In that view of the matter, Appeal is disposed of in the aforesaid terms.

2. With disposal of the Appeal, Civil Application therein does not survive. The same also stands disposed of.

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(SANDEEP K. SHINDE, J.)