

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO.662 OF 2022
WITH
INTERIM APPLICATION NO.10099 OF 2022
IN
APPEAL FROM ORDER NO.662 OF 2022**

Ms Marie D'Silva ...Appellant

Versus

Mr. Venketesh Raman Iyer and Anr. ...Respondents

...

Mr. Vadakkedadam Lakshanan for the Appellant.

Mr. Prasanna Malshe with Mr. Bhushan Joshi for Respondent No.1.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 9th DECEMBER, 2022.

P. C. :-

1. The Appellant has challenged the order dated 27/04/2022 whereby the learned Judge, City Civil Court, Greater Mumbai, has rejected notice of motion for interim mandatory injunction filed in the suit for specific relief.

2. It is stated that R. Thangammal, was the tenant of the premises, in respect of which the Appellant has filed a suit under Section 6 of the Specific Relief Act. Said R. Thangammal is the grandmother of the Respondent and the mother-in-law of Olinda

Venkataraman, the deceased sister of the Appellant. The Appellant claims right to the suit flat through her sister Olinda Venkatraman whereas the Respondent claims right being the grandson of the original tenant R. Thangammal. The Appellant has sought interim relief on the premise that she has been forcibly dispossessed.

3. The Trial Court has dismissed the application with prima facie observation that the Appellant was not in settled possession of the suit flat. She had stayed in the suit flat for couple of months to take care of her ailing sister. She left the flat after the death of her sister and when she returned she found that the Respondent had locked the flat. The material on record does not disclose that the Appellant was in settled possession of the flat and that she was dispossessed. The impugned order does not suffer from any illegality or infirmity and does not warrant any interference. Hence, the Appellant is not entitled for interim mandatory injunction.

4. Learned counsel for the Appellant states that several movable items of the Appellant and her sister are lying in the flat. He apprehends that the Respondent may dispose of the said movables.

5. Interest of the parties in this regard can be protected by making an inventory of the movables lying in the said flat. Hence, with consent Advocate Mr. S.D. Paithane, is appointed as a Commissioner. He shall visit the flat on 03/01/2023 in presence of both the parties and prepare a list of movables lying in the said flat and submit the same before the Trial Court.

6. In view of above, the petition stands disposed of.

7. Pending application (s), if any, stand (s) disposed of in view of disposal of the appeal from order.

(SMT. ANUJA PRABHUDESSAI, J.)