

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

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Appeal from Order No. 1096 / 2019

Shri. Nilesh Ramchandra Tawde

... Appellant

Versus

Mr. Sameer Anant Harawade and Ors.

... Respondents

Mrs. Swati Gautam a/w Roma Bhende, Advocate for the Appellant.

CORAM : SANDEEP K. SHINDE, J.

DATE : 10th FEBRUARY, 2022.

[Through Video Conference]

P.C.

Heard. Mrs. Swati Gautam, learned Counsel for the Appellant.

1. Appellant-Plaintiff instituted the S.C. Suit No. 2429/2015 for possession of the suit property being Flat No. 701, ad-measuring 490 sq.ft., at 7th floor of Dattaprasad Co-op. Housing Society Ltd., at Savarpada, Borivali (East), Mumbai (suit flat for short). Pending suit, Plaintiff sought multiple prays. The trial Court vide order dated 2nd April, 2019 restrained the Defendants from creating the third party

interest in the suit flat; however, declined to appoint the Court Receiver and declined to order, the Defendants to pay the compensation at the rate of Rs.20,000/- per month.

2. Indisputably, vide registered agreement to sell, dated 24th July, 2013, the Defendant Nos. 1, 2 and 3 had agreed to sell the suit flat to the Plaintiff and also received larger part of consideration, agreed under the agreement. As it appears, Plaintiff paid the consideration to the Defendants by availing-housing loan, for which, he is paying Equated Monthly Installment (EMI) of Rs. 36,472/-. The Defendants in spite of receiving larger part of consideration, declined the possession of the suit property to the Plaintiff.

3. Learned Counsel for the Appellant, submitted that the trial in the suit has commenced and at this stage, she may not press the appeal, if the trial Court is directed to conclude the suit within the reasonable time.

4. In consideration of the facts stated above, the request made by

the Counsel for the Appellant is reasonable. For all that reasons, the learned Judge, City Civil Court, Mumbai, Dindoshi Branch at Goregaon, shall conclude the trial in S.C. Suit No. 2429 within six months from today i.e. on or before 16th August, 2022.

5. Appeal is disposed of in the aforesaid terms.

(SANDEEP K. SHINDE, J.)