

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

**APPEAL FROM ORDER NO.635 OF 2022
WITH
INTERIM APPLICATION NO.9924 OF 2022
IN
APPEAL FROM ORDER NO.635 OF 2022**

Tara Gayaprasad Singh ...Appellant

Versus

Bagedu Bekaru Kewat and Ors. ...Respondents

...

Mr. Mohit Jadhav i/b. Ms Megha Shigavan for the Appellant.

Mr. Manoj Singh with Puneet Shukla i/b. M/s. MKS Legal Associates for Respondent No.1.

Mr. Sanjay Tiwari for Respondent Nos.2 to 7.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 11th JULY, 2022.

P. C. :-

1. The Appellant, who is Defendant No.7 in S.C. Suit No.945 of 2022 has challenged order dated 10/06/2022 whereby the learned Judge, City Civil Court at Dindoshi (Borivali Division), Goregaon, Mumbai, has continued earlier ad-interim relief granted vide order dated 06/05/2022.

2. Respondent No.1 (hereinafter referred to as 'the Plaintiff') had filed a Suit No.945 of 2022 along with notice of motion No.1463 of

2022 seeking to restrain the Defendants from interfering with its possession and creating third party rights. By order dated 06/05/2022 the learned Judge granted ad-interim relief in favour of the Plaintiff and restrained the Defendant Nos.1 to 3, 5 and 7 from obstructing the Plaintiff's possession in respect of the suit property and from creating third party interest, till the next date of hearing.

3. This order was challenged by Defendant No.7 in Appeal from order No.518 of 2022. By order dated 13/05/2022 vacation Bench of this Court (Coram : Milind N. Jadhav, J.) appointed the Court Receiver as Commissioner with consent of both the parties. Directions were given to the Court Receiver, who was appointed as a Commissioner to visit the suit property and ascertain the status of possession and the party in possession of the suit property and to file appropriate report before the Trial Court on or before 09/06/2022. The Trial Court was directed to consider the report and finally decide the notice of motion. The learned Judge was also directed to decide the notice of motion on its own merits without prejudice to the rights and contentions of both the parties.

4. On 10/06/2022 when the notice of motion came up for

hearing before the Trial Court, the learned Judge observed that copy of the High Court order does not reveal whether the earlier interim relief, which was granted, was stayed or vacated. The learned Judge therefore continued the earlier ad-interim relief. Being aggrieved by the said order the Defendant No.7-Appellant preferred this appeal.

5. During the pendency of this appeal, the Appellant filed a precipe before the appropriate Bench for speaking to minutes stating that from the plain reading of order dated 13/05/2022 it is not clear whether the ad-interim relief passed by order dated 06/05/2022 was vacated. By order dated 06/07/2022 passed in Interim Application No.10032 of 2022 this Court (Coram : Milind N. Jadhav, J.) clarified that the order dated 06/05/2022 passed by the Trial Court has been quashed and set aside. In view of the clarification, nothing survives in the appeal.

6. Hence, the appeal as well as the application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)