

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 735 OF 2022
WITH
INTERIM APPLICATION NO. 16614 OF 2022
IN
APPEAL FROM ORDER NO. 735 OF 2022

Johny Lonapan Kallikadan ...Appellant
V/s.
Mr. Om Prakash Pandey ...Respondent

Mr. A. A. Siddiquie i/b. A. A. Siddiquie & Associates, for the
Appellant.
None for the Respondent.

Digitally
signed by
MAMTA
AMAR
KALE
Date:
2022.08.20
12:14:05
+0530

CORAM : C.V. BHADANG, J.
DATE : 19 AUGUST 2022

P.C.

. Heard the learned counsel for the Appellant.

2. The Appellant (original Plaintiff), is challenging the order dated 29 June 2022 passed by the learned City Civil Court. The order reads thus-

Adv. A. A. Siddiqui for the plaintiff present.

Adv. Punit Shukla for defendant present.

Adv. For plaintiff has taken draft notice of motion alongwith affidavit in support and prays for leave to register the same.

O- Leave is granted to register the same.

Copy supplied to defendant.

Matter is adjourned to 05/07/2022 for reply to Notice of Motion.

It can thus be seen that except adjourning the notice of motion to 5 July 2022, there is no effective order passed on 29 June 2022. Although, the learned counsel for the Appellant states that ad-interim relief was pressed for, the order does not reflect that any such reliefs was pressed for.

3. Be that as it may, the learned counsel for the Appellant, at this stage, states that suit is not maintainable in view of the decision of the Supreme Court in *Sree Surya Developers and Promoters Vs. N. Sailesh Prasad and Ors.*¹ in as much as the suit challenges the decree passed on the basis of compromise.

4. The learned counsel for the Appellant states that he will file appropriate application before the trial Court for withdrawal of the suit.

5. It is neither necessary not appropriate at this stage to dwell on any such issues.

6. The appeal is disposed of. It would be open to the Appellant to file appropriate application before the trial Court for withdrawal of the suit. If such application is filed, the learned trial Court shall decide the same, on its own merits and in accordance with law. Pending civil application is also disposed of.

C.V. BHADANG, J.

¹*AIR Online 2022 SC 121*