

Urmila Ingale

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

**APPEAL FROM ORDER NO. 856 OF 2022
WITH
INTERIM APPLICATION NO. 17759 OF 2022**

Smt. Sheela Sunil Jadhav and anr. .. Appellants
Vs.
Smt.Vimal Bhagwan Jadhav and ors. .. Respondents

Mr. Rupesh Sohoni a/w Ms. Bhakti Patwardhan, for the
Appellants.
Ms. Sukeshi Bhandari a/w Mr.Akshay Chauhan, for
Respondent No. 1.
Mr. Vijay S. Sharma, for Respondents No. 3 and 4.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 5, 2022

P.C. :

1. I have heard learned counsel for the appellants at some length. Learned counsel for the respondent no.1 opposed the appeal from order. My attention is invited to the impugned order. It is the contention of the learned counsel for the appellants that though the stand of the appellants before the City Civil Court, Dindoshi is reflected in paragraph 5, however, none of the contentions raised by

the appellant no. 1 (original defendant no. 3) are dealt with in the impugned order.

2. I have gone through the findings. I do not find that the stand of the appellants had been dealt with by the City Civil Court, Dindoshi. After the matter was heard for some time, learned counsel for the respondent no. 1 fairly submitted that by consent, the order could be set aside and Notice of Motion No. 1307 of 2021 could be heard afresh on its own merits and in accordance with law.

3. In this view of the matter, without making any observations on merits of the rival contentions, or on the reasoning of the learned Judge, the impugned order is set aside.

4. Notice of Motion No. 1307 of 2021 be heard afresh by the learned Judge, City Civil Court, Dindoshi on its own merits and in accordance with law after considering the stand of the appellant no. 1 (original defendant no. 3).

5. Considering that the respondent no. 1 is the mother-in-law and having regard to the submissions made by learned counsel that respondent no. 1's husband is suffering

from cancer and further that they were in occupation of the suit flat at the time when property went in for redevelopment, which submission is opposed by the learned counsel for the appellants, in the peculiar facts learned Judge, is requested to expedite the hearing of the Notice of Motion No. 1307 of 2021. The same be decided as expeditiously as possible and in any case, within six weeks from 13/09/2022.

6. The parties to appear before the learned Judge, City Civil Court, Dindoshi on 13/09/2022 at 2.45 p.m. along with copy of this order.

7. Appeal From Order is disposed of. In view of the disposal of the appeal from order, interim application does not survive and the same also stands disposed of.

(M. S. KARNIK, J.)

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