

Diksha Rane

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

APPEAL FROM ORDER NO. 954 OF 2022

Ravasaheb Narsappa Khadke ..Appellant
vs.
Mumbai Housing and Area Development
Board (M.H.A.D.A.) & anr. ..Respondents

Mr. Deepak T. Raut for the appellant.
None for the respondents.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 10, 2022.

P.C. :

1. Heard learned counsel for the appellant.
2. The challenge in this appeal is to an order dated 28/6/2022 passed by the trial Court rejecting the Notice of Motion No. 2195 of 2021 taken out by the plaintiff for providing police protection for carrying out repairs as per order dated 15/2/2020 in Notice of Motion No. 2343 of 2017.
3. The order dated 15/2/2022 was passed on Notice of Motion filed by the plaintiff whereby he prayed for permission to fix an iron wall at the left side and back side of the suit premises i.e. shop at Khadke Centering Works, Opp. Building No.172, Kannamwar Nagar No.1, Vikhroli (E), Mumbai and to repair the door of the suit premises to save the articles lying in the suit premises from the theft or any

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sort of injury that may be caused by third party. The said Notice of Motion was made absolute in terms of prayer clause (a).

4. It is the contention of learned counsel for the appellant that neighbours are obstructing the plaintiff from complying with the order dated 15/2/2020 and therefore a request was made for police protection by filing Notice of Motion No. 2195 of 2021. Learned counsel submits that the orders passed by the Court can be said to be effective only if they are implemented. It is the submission of learned counsel that during the course of the implementation of the order if the neighbours are obstructing the plaintiff from complying with the order passed by the trial Court, then this is a fit case where police protection should have been granted.

5. The trial Court for the reasons recorded and upon observing that it is not the defendants have obstructed the plaintiff from carrying out the repairs, was of the opinion that there is no breach or disobedience of the interim order dated 15/2/2020 by MHADA. It is observed that the residents who are obstructing the implementation of the order are not party to the suit. According to the trial Court, the order in Notice of Motion No. 2343 of 2017 is not binding on the residents. Thus, according to the trial Court, there is no question of enforcing the interim order dated 15/2/2020 in Notice of Motion No. 2343/2017 by providing police protection.

6. I see no reason to interfere with the order passed by the trial Court. It is not the case that MHADA is coming in the way of implementation of the order. In my view, the appellant has to take recourse to appropriate remedies to seek enforcement of the interim order dated 15/2/2020 instead of directly seeking a relief of enforcement of the order by asking for police protection at the threshold.

7. Keeping the liberty of the appellant open to explore the remedies available for seeking enforcement of the interim order dated 15/2/2020 in Notice of Motion No. 2343 of 2017, the appeal is dismissed.

8. It is made clear that if the appellant by an appropriate application seeks enforcement of the order dated 15/2/2020, the observations made in the impugned order will not come in the way, including grant of police protection if the same is permissible.

9. If such an application is made, the same shall obviously be decided expeditiously as the trial Court would surely be concerned with enforcing its own order.

10. The appeal is disposed of.

(M.S.KARNIK, J.)