

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

APPEAL FROM ORDER NO.325 OF 2019

Hemangi Madhukar Bhatkar

...Appellant

Vs

Deepali Dilip Kher and Ors.

... Respondents

...

Ms. Veera Shinde i/by Mr. Akshay V. Kamble for the appellant.
Mr. Dharam Sharma with Ms. Uma Sharma i/by Dharam & Co.
for the Respondent No.1.

CORAM : SANDEEP K. SHINDE J.

DATE : JANUARY 11, 2022.

P.C. :

Heard the learned counsel for the parties.

2 Ms. Deepali Dilip Kher, respondent no.1 herein (Original Plaintiff) instituted S.C.Suit No.1025 of 2013 seeking a declaratory decree that she is co-owner of the suit property, i.e., Room No.5, Sita Nivas Building, Girgaon, Bombay- 400004, then more particularly described in paragraph 2 of the plaint.

3 Pending suit, the learned trial Court vide order dated 2nd

July, 2018 restrained the developer (Defendant No.2) from handing over possession of the suit property to the Defendant No.1A to 1C or any of them. The Appellant before this Court is original defendant no.1B.

4 Feeling aggrieved by the order dated 2nd July, 2018 passed in Notice of Motion No.1267 of 2016, defendant no.2 has preferred this Appeal From Order under Order 43 of the Code of Civil Procedure, 1908.

5 On 25th November, 2019, this Court admitted the appeal and stayed the operation of the impugned order. It appears, soon thereafter, the developer handed over possession of the suit property to the appellant. The learned counsel for the appellant on instructions makes a statement that the appellant Hemangi Madhukar Bhatkar, original defendant no.1B is in possession of the suit property. In consideration of this fact, original plaintiff has moved an application i.e. Chamber Summons before the trial Court for protecting her rights in the property. That Chamber Summons is pending before the trial

Court for consideration.

6 In that view of the matter, it would be appropriate to direct the trial Court to decide the Chamber Summons taken out by the plaintiff expeditiously and preferably within six months from today.

7 In view of the facts stated above, nothing survives in the appeal and, therefore, it is disposed of in the aforesaid terms.

8 The learned counsel for the original plaintiff submits that plaintiff being senior citizen, suit may be expedited. Accordingly, suit is expedited.

(SANDEEP K. SHINDE, J.)