

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO.677 OF 2018****WITH****CIVIL APPLICATION NO. 886 OF 2018****IN****APPEAL FROM ORDER NO.677 OF 2018**

Sandip Shivram Koli and ors .. Appellants

Versus

Sunil Krushnarao Kravir and ors .. Respondents

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Mr. S.S. Kulkarni i/b Swapnil S. Mhatre for the appellants.

Mr.Ashutosh Kaushik with Namrata Parmar i/b M/s.Kaushik &
Co. for respondent nos.3, 4 and 6.**CORAM: BHARATI DANGRE, J.****DATED : 20th APRIL, 2022****P.C:-**

1 The present Appeal assails the order dated 7/7/2018 passed by the City Civil Court, Dindoshi, in Notice of Motion No.302/2015 by rejecting the same, and holding that there is no prima facie case in favour of the plaintiff, but rather the balance of convenience and irreparable loss is recorded in favour of the defendant.

The Appeal deserves a disposal in the wake of the statement made by the learned counsel for the respondent and with a direction being issued to the concerned trial Court to conclude the proceedings in S.C. Suit No.3003/2014.

2 The learned counsel for the respondent, on the basis of instructions of respondent nos.4 and 6 who are present in the Court, state that they shall not create any third party interest in the suit property. He also has instructions to the statement that, apart from raising the height of the existing structure on account of the issue of water logging, no further construction shall be carried out. The statement to the above effect shall continue till the disposal of S.C. Suit No.3003/2014.

3 It is informed by the learned counsel for the appellant that the issues are settled in the Suit and the evidence affidavit of the plaintiff is about to be filed, but an application for re-casting of the issues is pending. Upon an order being passed on the said application, the plaintiff is ready to file his evidence affidavit and the evidence in the trial can then commence. Taking into consideration the nature of the suit, being for declaration and injunction, the learned City Civil Court, Borivali Division shall conclude the proceedings in the Suit on or before 30/12/2022 from the date of settlement of issues.

In view of the disposal of AO, Civil Application No.886/2018 do not survive and stand disposed off.

(SMT. BHARATI DANGRE, J.)