

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
IN ITS COMMERCIAL DIVISION**

**INTERIM APPLICATION NO. 1178 OF 2022  
IN  
COMMERCIAL SUIT NO. 178 OF 2019**

Vikas Khandelwal ... Applicant/Orig. Defendant No.1

**In the matter between**

Kamla Yadav & Anr. ... Plaintiffs

Versus

Vikas Khandelwal & Ors. ... Defendants

Mr. Kayval P. Shah for the Plaintiffs.

Mr. D.R. Singh, Mr. Shailesh Rav for Defendant Nos.1 and 2.

Ms. R.V. Rane, 2<sup>nd</sup> Asstt. to C.R. present.

**CORAM : R.I. CHAGLA, J.**

**DATED : 18<sup>th</sup> JULY, 2022.**

**ORDER :**

1            Heard the learned Counsel for the parties.

2            By this Interim Application the Applicant/Original Defendant No.1 is seeking an order pending the hearing and final disposal of the Suit to restrain the Plaintiffs, their servants and agents and/or any persons or anyone claiming through or under them from creating obstacles,

hindrance to the smooth access of the suit property for the Defendants. Further order is sought for permission to the Defendants to install CCTV camera and deploy security guard on the suit premises at the cost of the Defendants.

3           The Applicant/Original Defendant No.1 has claimed that the Plaintiffs are care takers of the suit property and inspite of which they are assuming powers and authorities of owners. The Plaintiffs are deliberately violating order dated 28.09.2018 and committing willful contempt thereof. Certain correspondence has been referred to in that context. The Court Receiver was appointed by this Court vide order dated 28.09.2018. The Court Receiver has taken symbolic possession of the suit property.

4           The learned Counsel appearing for the Plaintiffs has vehemently opposed any relief being granted in the Interim Application on the ground that the Defendants are required to file independent Suit. He has submitted that the Plaintiffs were appointed as agents of the Court Receiver on the ground that the Plaintiffs were in possession of the suit property. The Defendants were obstructing the possession of the Plaintiffs and accordingly this Court had directed that the shed put up by Defendant Nos.1 to 3 shall be forthwith removed. He submitted that

relief now sought for against the Plaintiffs which is restraining the creation of obstacles, hindrance to the smooth access of the suit property for the Defendants is not to be granted as the Defendants are not in a possession of the suit property. He has further submitted that the relief sought for installation of CCTV Camera was earlier sought for in 2013 and which was thereafter withdrawn by the Defendants. He has accordingly submitted that there is no merit in the Interim Application. He has also referred to the prior order dated 25.09.2018. In the said order this Court had directed the Defendants not to disturb the possession of the Plaintiffs in respect of the suit property. By subsequent order dated 27.09.2018 this Court had noted the submission of the learned Counsel for the Plaintiffs that 100 persons entered the suit premises and are cutting the trees and trying to put up a shed. The Plaintiffs has stated that they had lodged FIR against them before the Malvani Police Station, Mumbai, but the police authorities were not cooperating with the Plaintiffs. The learned A.G.P was requested to enquire with the Senior Inspector of Malvani Police Station, Mumbai, as regards what was happening at the suit premises and upon which the concerned Police Station informed this Court that FIR is already registered against the Defendants with regard to criminal trespass and the Police was reaching the site to ascertain the position and submit report to this Court on 28.09.2018.

5           This Court on 28.09.2018 had accordingly appointed the Court Receiver and had directed status-quo in respect of the suit property to be maintained by the parties, save and except the shed which was put up by Defendant Nos.1 to 3 which was to be forthwith removed. It was further directed by this Court that both the parties shall not sell, alienate, encumber, part with possession and/or create third party rights in respect of the suit property until further orders. Accordingly, pleadings were to be completed and Court Receiver was to deploy one male and one female security guards in two shifts. The payment of the security guards shall initially be borne by the Defendants. The rights and contentions of the parties were expressly kept open.

6           The Court Receiver has filed the Report No.84 of 2019. It is stated in the said report that the Court Receiver had taken symbolic possession of the suit property on “as is where is basis” and “as is what is basis” by affixing Court Receiver’s possession board at the main entrance of the suit property and obtaining undertaking/indemnity bond from Plaintiff No.2. The Court Receiver had directed the parties to take necessary steps for appointment of security guards. The Defendants agreed for appointment of one security service viz. Deepak Security Services, however, time was sought to take instructions in the matter as the Defendants were required to pay security charges as per the order

dated 28.09.2018. It was further recorded in the Court Receiver's Report that Defendant No.1 has not complied with directions on issue of appointment of security guard. In the Site report which is annexed to the Court Receiver's Report, it is mentioned that inspection had been taken on 16.10.2018 and symbolic possession of the suit property was taken upon Plaintiff No.2 giving undertaking/indemnity bond. Defendant No.1 had informed that there was compliance with order dated 28.09.2018 as the shed has been removed. It was further informed that despite status-quo granted by this Court, the Plaintiffs has created barbed wire fencing at the right side of main entrance. Plaintiff No.2 stated that the said fencing was for safety of animals.

7           The 2<sup>nd</sup> Assistant to the Court Receiver present in Court informed this Court that though the directions of 28.09.2018 was to appoint security guards and which payment was borne by the Defendants, the Defendants were not agreeable to make such payment and accordingly security guards remain to be appointed. It is also necessary to note that an application has been made for provision of CCTV camera in the suit property by the Defendants which was thereafter withdrawn by the Defendants.

8           Having considered the above submissions, it is necessary to note that the status-quo order dated 28.09.2018 apart from appointing the Court Receiver in respect of the entire suit property had directed the parties which include the Plaintiffs and Defendants to maintain status-quo as of the date of the said order in respect of the suit property, save and except the shed which had been put up by Defendant Nos.1 to 3 was to be forthwith removed. It was further directed in the said order that the parties shall not sell, alienate, encumber, part with possession and/or create third party rights in respect of the suit property until further orders.

9           The status-quo order dated 28.09.2018 is clear and unambiguous and requires no interpretation. It is clear from the reading of the said order that both the Plaintiffs and Defendants were to maintain status-quo in respect of the suit property barring the removal of the shed put up by Defendant Nos.1 to 3. There was order of injunction as aforementioned against both parties from in any manner selling, alienating, encumbering, parting with possession and/or creating third party rights in respect of the suit property. This order has continue till today.

10          The present application which has been taken out by the Defendants in the captioned Suit is for implementation of the said order.

The Plaintiffs as well as the Defendants are to maintain status-quo as of the date of the said order dated 28.09.2018 in respect of the suit property. Neither the Plaintiffs nor the Defendants can interfere with each others rights in the suit property.

11           It is not necessary to go into the issue as to who is creating obstacles, hindrances to the smooth access of the suit property as that issue is to be decided in the Notice of Motion (L) No.2303 of 2018 which has been taken out in the captioned Suit and which requires to be heard.

12           The relief sought for permission to install CCTV camera cannot be granted in view of structure existing on the suit property in which there is a family residing which includes women and children. Insofar as the security guard is concerned, this Court felt it necessary to appoint security guards in the suit property as recorded in order dated 28.09.2018. This shall be implemented by provision of a security guard who shall be a women considering the occupants of the structure on the suit property. The provision of security guard will be subject to the Defendants bearing the costs of the security guard. The Court Receiver shall take steps for appointment of the security guard.

13           The Interim Application is disposed of in the above terms.

14           It is made clear that the security guard is permitted solely for the purpose of securing the suit premises and will not interfere with possession of either the Plaintiffs or Defendants on the suit property.

15           The Notice of Motion (L) No.2303 of 2018 along with Chamber Summons No. 255 of 2019 shall be listed on 04.08.2022 for hearing.

**(R.I. CHAGLA, J.)**

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signed by  
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SUSHIL  
WAGHMARE  
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