

Vidya Amin

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

**APPEAL FROM ORDER NO. 123 OF 2023
WITH
INTERIM APPLICATION NO. 1570 OF 2023**

Ramesh Apparao Shetty

... Appellant/
Applicant

Versus

Mrs. Madhu wd/o. Surendar Chopra

...Respondent

Mr. Pradeep Thorat i/b. Mr. Ashok M. Saraogi for the
appellant/applicant.

Mr. Jagdish N. Jayale a/w. Mr. Mr. Vipin Peethumban for the
respondent.

CORAM: G. S. KULKARNI, J.
DATED: 21 February, 2023

P.C.

1. Heard Mr. Thorat, learned counsel for the appellant/applicant and Mr. Jayale, learned counsel for the respondent.

2. This appeal arises from an order dated 6 February, 2023 passed by the City Civil Court at Dindoshi (Borivali Division), Goregoan, Mumbai whereby Notice of Motion No. 3038 of 2022 filed by the appellant/plaintiff in S.C. Suit No. 2034 of 2022 has been dismissed, wherein the prayers of the appellant/plaintiff for a temporary injunction restraining the respondent/defendant from disturbing his use, occupation and possession in

respect of the suit premises, namely, Office No. 4/F, Vaishali Shopping Centre, V.L. Mehta Marg, Juhu Scheme, Mumbai.

3. After the proceedings were heard for sometime, Mr. Thorat, on instructions from the appellant who is present in the Court, has fairly stated that if a reasonable time of three months is granted to the appellant, he shall vacate the premises. He also states that an undertaking shall be placed on record of this Court within a period of one month from today that the appellant/plaintiff shall vacate the premise within three months from today. Statement of Mr. Thorat that the appellant shall vacate the premises within three months from today stands accepted.

4. Learned counsel for the respondent has also taken a fair position. He submits that subject to the appellant/plaintiff furnishing such undertaking, the respondent would not have any objection for the appellant/plaintiff to continue in the premises for a period of three months from today. He however submits that there shall not be any further extension for any reasons whatsoever.

5. In the above circumstances, as both the parties have taken a fair position, in my opinion, the Appeal can be disposed of by the following order:

(i) The appellant/plaintiff to place on record of this Court an undertaking that he shall vacate the suit premises within a period of three months from today. The undertaking on affidavit which shall be filed within one week from today would stand accepted as an undertaking to the Court. There shall not be any further extension to vacate the premises.

(ii) In view of amicable resolution of the disputes, nothing survives for adjudication in this appeal, the appeal would accordingly stand disposed of.

(iii) Liberty to the appellant/plaintiff to withdraw the suit filed before the City Civil Court.

6. Disposed of in the above terms. No costs.

7. In view of disposal of Appeal from Order, Interim Application would not survive and the same is accordingly disposed of.

G. S. KULKARNI, J