

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.674 OF 2022
WITH
INTERIM APPLICATION NO.10136 OF 2022
WITH
INTERIM APPLICATION NO.1866 OF 2023
WITH
APPEAL FROM ORDER NO.675 OF 2022
WITH
INTERIM APPLICATION NO.10139 OF 2023

M/s. Fiza Constructions Co., thr.
Its Prop. Mr. G. R. Mujawar, thr.
Its COA Mr. Pratesh B. Deshmukh ... Appellant

Versus
Revati Kuluram Ulvekar and ors. ... Respondents

...
Mr. Anilkumar Patil, i/b. Mr. Rohan H. Barge for Appellant.
Mr. Rohit Sakhadeo, for Respondent Nos.3A, 4, 5 and 6.
Mr. Kuldeep U. Nikam, for Respondent No. 7 to 14.
Mr. Ashwin Shete, a/w. Mr. Gaurav Suralkar, i/b. Jaykar & Partners for
Respondent Nos.15 & 16.

...

CORAM: SANDEEP V. MARNE, J.
DATE : 25 SEPTEMBER 2023.

P. C.:

In these appeals the Appellant challenges order dated 27 April 2022 passed by the Civil Judge, Senior Division, Panvel. The Order

reads thus -

ORDER

01. The Application at Exh.5, 52 and 68 are hereby partly allowed.
02. The defendant Nos. 01 to 03 and 07 to 14 through their agents, representatives, assignees etc. are hereby restrained from creating any third party interest in respect of the suit property no.1, as mentioned in the order, till further order of this court.
03. The status quo order given below Exh.63 on dated 04/08/2012 in respect to suit property no.2 stands vacated from 16/11/2015.
04. The plaintiffs are directed to make an endeavour to get the matter decided within six months from the date of this order, otherwise, the protection granted to them will stand vacated without further any order of this court.

2. By way of direction No.2 the Trial Court has restrained Defendant Nos.1 to 3 and 7 to 14 from creating any third party interest in respect to suit property bearing plot No.144. However Mr. Patil the learned counsel appearing for Appellant would submit that direction No.4 restricts the said protection only for the period of six months. He would submit that decision of suit within 06 months is not entirely in the hands of Appellant and therefore Trial Court could not have to set a time limit for operation of interim order *qua* land bearing plot No.144. I find considerable merit in submission advanced by Mr. Patil. In my view the interim protection granted by the Trial Court *qua* plot No.144 needs to be continued till decision of Special Civil Suit No.621 of 2010.

3. So far as direction No.3 in the impugned order is concerned, the Trial Court has vacated *status quo* earlier granted in respect of land bearing plot No.61 B. It appears that during pendency of the suit, Plaintiff himself entered into an agreement dated 16 November 2015 and agreed to accept amount of Rs.12 Crore. There appears to be some dispute between the parties as to whether said amount is actually received by the Plaintiff or not. While the Plaintiff contends that he has received amount of Rs.1.35 Crores. It is the contention of Respondent Nos.15 and 16 that Plaintiff has received amount of Rs.11 Crore 90 lakh in pursuance of agreement dated 16 November 2015. Reliance in this regard is placed by Mr. Shete on paragraph No.8 of the order passed by the Civil Judge Senior Division, Panvel on 18 August 2019 on application at Exh.92 by which Plaintiff had sought deletion of Defendant No.15 from the suit on account of execution of agreement dated 16 November 2015. It is not necessary to go into the issue of receipt of exact amount by the Plaintiff in pursuance of the agreement dated 16 November 2015. On perusal of the order, it is seen that the Civil Judge Senior Division has *prima facie* recorded observation that Plaintiff himself violated order of *status quo* by entering into agreement with Defendant No.15 on 16 November 2015. In that view of the matter, the Trial Court cannot be faulted for lifting order of *status quo* in respect of property bearing plot No.61 B.

4. Present appeal is accordingly disposed of by modifying order dated 27 April 2022 to the extent that direction No.2 *qua* land bearing plot No.144 shall continue to operate till final disposal of Special Civil

Suit No. 621 of 2010. The Trial Court shall endeavor to decide the suit as expeditiously as possible preferably within a period of six months. All contentions of the parties are left open. It is clarified that observations made by the Trial Court in the order dated 27 April 2022 as well as by this Court in the present order are merely *prima facie* and the Trial Court shall not be influenced with the said findings while deciding the suit finally.

5. With the above directions the appeal is disposed of.

SANDEEP V. MARNE, J.

KISHOR
VISHNU
KAMBLE

Digitally signed
by KISHOR
VISHNU
KAMBLE
Date:
2023.09.27
14:51:44
+0530