

Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 668 OF 2014
IN
NOTICE OF MOTION NO. 2768 OF 2008

Shobhnath Bhagirathi Singh & Ors. ..Appellants
Vs.
Arvind Bhagirathi Singh & Ors. ...Respondents

Mr. Madhur Rai i/b. Ashoka Law Firm for Appellants.
Mr. S. P. Srivastava for Respondent No.1.

CORAM : G.S. KULKARNI, J.
DATE : JANUARY 11, 2023

P.C.:

1. Heard learned counsel for the appellants and learned counsel for respondent no.1.
2. This appeal has been filed against an order dated 27 March, 2014 passed by the learned Judge, City Civil Court at Bombay whereby Notice of Motion No.2768 of 2008 was partly allowed by the following order:-

“ ORDER

1. The Notice of Motion No. 2768 of 08 is hereby partly allowed with modification.
2. The relief claimed in prayer clause (a), (b), (c), (d), and (e) of the notice of motion are hereby rejected.
3. The defendants are hereby restricted from creation of 3rd party interest in the suit property or in the milk business during pendency of the suit.
4. Accordingly the notice of motion no. 2768 of 08 is hereby disposed of.
4. The next date is fixed on 25/4/2014.”

3. Thus the protection as granted by the impugned order to the appellants was to the extent that the defendants were restricted from creation of third party interest in the suit property or in the milk business during pendency of the suit. Such relief was continued to operate from 27 March 2014.

4. Perusal of the record of the present appeal also indicates that there was no other relief as granted in favour of the appellants. In the meantime, the suit has progressed. It is stated that the evidence of the parties is being recorded.

5. In this view of the matter, in my opinion, it is appropriate and in the interest of justice that the parties are permitted to raise their respective contentions in the pending suit. The suit be decided as expeditiously as possible.

6. Needless to observe that the trial Court shall adjudicate the suit on its own merits and without being influenced by the prima-facie findings as recorded in the impugned interim order.

7. All contentions of the parties in the suit are expressly kept open.

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

[G.S. KULKARNI, J.]