

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 367 OF 2023
IN
NOTICE OF MOTION NO. 2545 OF 2022
IN
S.C. SUIT N. 280 OF 2022
WITH
INTERIM APPLICATION NO. 4528 OF 2023

Jitendra Lalji Haria

...Appellant

V/s.

Laxmi Laxmichand Haria

....Respondent

Mr. Bhavin Gada, Mrs. Vaishali Sharma, Mr. Dhaval Visawadia and
Ms. Dharmi Savla i/by. Harakchand & Co.,, for the Appellant.

Mr. Mayur Khandeparkar i/by. Mr. Neel A. Gala, for the Respondent.

CORAM : SANDEEP V. MARNE, J.

Dated : 1 November 2023.

P.C. :

1. The Appeal challenges the order dated 25 April 2023 passed by the City Civil Court dismissing Notice of Motion No. 2545 of 2022. After arguing the Appeal for some time, Mr. Gada, the learned counsel

appearing for the Appellant and Mr. Khandeparkar, learned counsel appearing for the Respondent would jointly submit that following order be passed with the consent of the parties, who are present before the Court :

(i) During the pendency of the suit, the Appellant-Plaintiff alone shall be permitted to carry on business in the suit premises upon payment of Rs.40,000/- to the Defendant on/or before seventh day of every month.

(ii) Such permission to carry on business in the suit premises by the Plaintiff shall however be construed as joint possession of the Plaintiff and Defendant over the suit premises.

(iii) In the event, the Plaintiff commits default in payment of amount of Rs.40,000/- to the Defendant, the Defendant shall be at liberty to file appropriate application before the City Civil Court to seek permission to carry on business in the suit premises or to restrain the Plaintiff from carrying on business in the suit premises.

(iv) Both the parties shall not create any third party rights and/or part with possession of the suit premises during pendency of the suit.

(v)The City Civil Court is requested to expedite the hearing of the suit.

2. With the above directions, the Appeal from Order is **disposed of**. With disposal of the Appeal, Interim Application does not survive. The same also stands disposed of.

SANDEEP V. MARNE, J.