

Sayali Upasani

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

**APPEAL FROM ORDER NO.739 OF 2022
WITH
INTERIM APPLICATION. NO. 16652 OF 2022**

Shri. Sunil Basappa Bali ...Appellant

Vs.

Smt. Supriya Rajendra Nerli ...Respondent

Mr. Ashutosh Kulkarni, for Appellant.

Mr.Pralhad Paranjape i/b Mr. Manish Kelkar, for Respondent.

CORAM:- N. J. JAMADAR, J.

DATED:- 15th MARCH, 2023

ORDER:-

- 1) Heard the learned Counsel for the parties.
- 2) This Appeal is directed against an order dated 22nd June, 2022, passed by the learned 4th Jt. Civil Judge, Senior Division, Solapur, in Special Civil Suit No. 174 of 2022, on an application for temporary injunction, preferred by the respondent - plaintiff restraining the appellant-defendant from operating brick kiln and manufacturing and selling the bricks in the suit premises till the decision of the suit or for the period of one year from the the date of the said order.

3) The appellant-defendant was also restrained from creating any third party interest in the suit property for the aforesaid period.

4) The respondent-plaintiff instituted the suit for a decree of possession of the suit property with assertion that the defendant is a licensee of the suit property. The defendant has been unauthorizedly and illegally running the business of brick kiln in the suit property without necessary sanctions and environment clearances.

5) Having regard to the duration of the temporary injunction granted by the trial court and the fact that the trial in the suit has commenced Mr. Kulkarni, the learned Counsel for the appellant-defendant submits that the impugned order be only modified to the extent of permitting the appellant-defendant to sell the bricks, which have already been manufactured and stored at the suit property.

6) Mr. Paranjape, the learned Counsel for the respondents-plaintiffs, resists the said prayer on the ground that the plaintiffs have already lodged complaints with the Authorities including the Maharashtra Pollution Control Board and the Tahasildar,

North Solapur, raising grievances about manufacturing and selling of the bricks without requisite permission.

7) The Authorities will be within their rights to initiate all the requisite actions against the defendant-appellant for the breach of the Regulatory Provisions. However, the Court cannot loose sight of the nature of the suit. It is primarily for the possession of the suit property based on a claim of proprietary title thereto. No title is claimed over the bricks which have been manufactured and stored at site.

8) In the circumstances, I am inclined to allow the Appeal to the limited extent of modifying the impugned order permitting the appellant-defendant to sell the bricks, which are also manufactured and stored, at the suit property.

9) By way of abundant caution, it is clarified that this order shall not be construed as legitimizing acts of the appellant-defendant or restraining the concerned Authorities from initiating appropriate action against the appellant-defendant. The authorities are free to exercise all the powers, which are available in law and in accordance with law.

10) To rule out the possibility of this order being construed as a permission to further manufacture the bricks, it is directed

that this permission to sell or otherwise dispose of the bricks shall be valid for a period of four weeks from today.

11) The Appeal stands disposed.

12) In view of disposal of the appeal, the interim application dose not survive and stands disposed.

[N. J. JAMADAR, J.]