

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.1076 OF 2019

Suresh Sundar KambleAppellant

....Respondents

...
WITH
INTERIM APPLICATION NO.15771 OF 2023
IN
APPEAL FROM ORDER NO.1076 OF 2019

Subhash Sundar Kamble & Anr.Applicants

V/S
Suresh Sundar Kamble

Mr. Abhishekh L. Tripathi for the Appellant.
Mr. S.K. Dubey for Respondent/Applicants.

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CORAM: SANDEEP V. MARNE, J.
DATE : OCTOBER 04, 2023.

P.C.:

1 This Appeal is filed challenging the order dated 22 July 2019 passed by the City Civil Court rejecting Notice of Motion No.255 of 2017 filed seeking temporary injunction to restrain the Defendants from encroaching, constructing or putting any structure or creating third party rights in respect of the suit property. This Court passed an interim order of status quo by its order dated 1 October 2019. Later the Appeal was admitted by order dated 18 December 2019 and this Court granted interim order in terms of prayer clause (b) in Civil Application No.1227 of 2019. Prayer clause (b) in that Civil Application reads thus:

“(b) Pending the hearing and final disposal of the Memo of Appeal, this Hon'ble Court be pleased to pass an order of temporary injunction thereby restraining the defendants, their servants, agents, person/s claiming through them from encroaching, constructing or putting any structure either permanent or temporary or any other nature whatsoever and also from creating third party right such as selling, assigning, letting out on rent, leasing, mortgaging, creating charge and/or giving leave and licence on/of suit premises and/or part or portion thereof viz the portion shown with pink wash admeasuring 600 square meters shown with letters A, B, C & D on the said property, the land bearing CTS No.49 (pt) admeasuring about 6000 square meters or thereabout together with structures standing thereon situate at Muranjanwadi, S.V. Road, Powai, Mumbai-400 072 bounded on east by Sai Leela Society, west by Murujanwadi Chawl, south by Prem Nagar and north by open ground;”

2 The Interim Application is filed by the Defendants in the suit complaining that the Trial in the suit is not progressing and directions are sought for expediting hearing of the suit.

3 The present Appeal is pending since the year 2019. The interim order is operating since 18 December 2019. Therefore, instead of deciding the present Appeal on merits, it would be appropriate that the said interim order granted by this Court on 18 December 2019 shall continue to operate till the decision of the suit. Accordingly the present Appeal is disposed of by continuing the interim order granted on 18 December 2019 till the decision of the suit.

4 The Trial Court is requested to expedite the hearing of the suit and to make an endeavour to decide the same as expeditiously as possible preferably within a period of one year from today.

5 With the disposal of the above Appeal, the Interim Application shall stand disposed of accordingly.

(SANDEEP V. MARNE, J.)