

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 990 OF 2022
WITH
INTERIM APPLICATION NO. 19178 OF 2022**

Mr. Vikas s/o. Kantilal Agarwal ...Appellant

V/s.

Mr. Kantilal Atmaram AgarwalRespondent

Mr. Ashok M. Saraogi, for the Appellant.

None for the Respondent.

CORAM : SANDEEP V. MARNE, J.

Dated : 25 September 2023.

P.C. :

1. Mr. Saraogi, the learned counsel appearing for the Appellant would submit that Appellant's Notice of Motion seeking temporary injunction to restrain the Defendants from disturbing Appellant-Plaintiff's possession over the suit property has been rejected. The Appellant-Plaintiff has instituted a suit for injunction and other declaratory reliefs. Mr. Saraogi, would submit that the Defendants in the suit have instituted their own independent suit in this Court seeking partition and an application for grant of

temporary injunction in that suit is pending before this Court. He would submit that the observations made by the City Civil Court in paras-13, 14 and 15 of the impugned order dated 17 September 2022 may come in the way of Appellant-Plaintiff in the suit and the application filed before this Court. It is clarified that the observations made by the City Civil Court in the order dated 17 September 2022 are *prima-facie* and recorded only for the purpose of determining whether the Appellant-Plaintiff had made out a case for grant of temporary injunction. The said finding will not have any bearing on the rights and entitlement of the parties while deciding the Suit before the City Civil Court or before this Court. With the above clarification, the Appeal from Order is **disposed of**.

2. With disposal of the Appeal from Order, Interim Application No. 19178/2022 taken out for injunction, becomes infructuous and does not survive. The same also stands disposed of.

NEETA
SHAILESH
SAWANT

SANDEEP V. MARNE, J.

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