

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.894 OF 2023

WITH
INTERIM APPLICATION NO.16668 OF 2023
IN
APPEAL FROM ORDER NO.894 OF 2023

WITH
INTERIM APPLICATION NO.16667 OF 2023
IN
APPEAL FROM ORDER NO.894 OF 2023

Julian Dsouza
V/S

....Appellant/Applicant

M/s. J.K. Enterprises

....Respondent

...

Dr. Abhinav Chandrachud with Mr. Jennifer Michael and Ms. Divya Vishwanath i/b and Mr. Soni Sinha for the Appellant/Applicant.

Mr. Mayur Khandeparkar, Ms. Kausar Banatwala, Mr. Yash Dhakad, Ms. Paluck Bengali i/b Mr. Tushar Goradia for Respondent.

...

CORAM: SANDEEP V. MARNE, J.

DATE : OCTOBER 27, 2023.

P.C.:

1 The challenge in the present Appeal is to the order dated 16 October 2023 passed by the City Civil Court declining ad-interim injunction in favour of Appellant/Plaintiff.

2 The Appellant/Plaintiff has instituted the SC Suit No.2514 of 2023 for injunction simplicitor against the Defendant to restrain it from

dispossessing or interfering or disturbing the Appellant/Plaintiff's possession over the suit property.

3 Perusal of the order passed by the City Civil Court would indicate that a prima facie finding is recorded that the Appellant/Plaintiff is in possession of the suit property. This is disputed by Mr. Khandeparkar, the learned Counsel appearing for the Defendant. It is an admitted position that the tenants who have been inducted by the Appellant/Plaintiff/current occupants appear to be in possession of the structures constructed in the suit property. Mr. Khandeparkar submits that as of now the Defendant is not intending to dispossess the tenants/occupants without following due process of law. Considering this position, since the order challenged in this Appeal only declines ad-interim injunction, it would be appropriate that the City Civil Court decides the Notice of Motion so that all the rights and contentions raised by the parties in the Notice of Motion are considered and decided. Mr. Khandeparkar would submit that the Defendant had filed proceedings before the Collector for mutating his name to the property card extract. Needless to say that the observations made in any order passed in any application filed by the Appellant/Plaintiff in SC Suit No.2514 of 2023 would not come in the way of parties prosecuting the proceedings filed by them relating to revenue entries.

4 Accordingly the present Appeal is disposed of requesting the City Civil Court to decide the Notice of Motion filed for grant of interim

injunction without being influenced by the observations made in the impugned order dated 16 October 2023 or in the present order. All contentions of the parties on merits are kept open.

5 In view of the disposal of the Appeal from Order, the Interim Applications also accordingly disposed of.

(SANDEEP V. MARNE, J.)