

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.523 OF 2015

WITH

CIVIL APPLICATION NO.1144 OF 2015

Shri.Kanhaiyalal Motilal Talera

... Appellant

Versus

Skyline Co-op.Hsg.Soc.Ltd. & Ors.

...Respondents

Mr.Rohan P. Surve with Mr.Kunal K. Naik, for the Appellant

Mr.Pratap Patil, for Respondent No.1, 2A, 2B, 2D & 2E.

CORAM: G. S. KULKARNI, J.

DATED: JANUARY 11, 2023

PC.

1. Heard Mr.Surve, learned Counsel for the appellant and Mr.Patil, learned Counsel for respondent No.1, 2A, 2B, 2D and 2E. This appeal is directed against an order dated 10 July 2014 passed by the learned 3rd Additional Judge, Small Causes Court and Joint Civil Judge, Senior Division, Pune on an application filed by the respondents/plaintiffs below 'Exhibit 5' whereby an order of temporary injunction during the pendency of the suit has been passed in the following terms:-

"Order

- 1) Application Exh.5 is allowed and the status quo order passed on 30.4.2013 is modified as below:
- 2) Defendants are hereby restrained from causing any obstruction to the possession of plaintiffs over the suit property and creating third party interest on the basis of compromise decree over the suit property, till disposal of this sui.
- 3) Costs will be the cost in cause."

2. This appeal was filed on 17 December 2014. Perusal of the record

indicates that there are no interim orders or a stay on the impugned order. Thus the impugned order has continued to operate almost for a period of eight years. In the meantime as fairly pointed out by learned Counsel for the appellant, the suit has progressed. He states that the suit is at the stage of the evidence of the parties is being recorded.

3. Considering the aforesaid circumstances, in my opinion, it will be appropriate that the suit itself is decided as expeditiously as possible, more so considering the fact that the suit itself is of the year 2013. All contentions of the parties on merits in the pending suit are expressly kept open.

4. Needless to observe that the findings which are arrived in the impugned order in granting interim injunction are prima facie findings and the suit be decided by the learned Trial Judge uninfluenced by the said findings and on merits. All contentions of the parties are expressly kept open.

5. Parties may move an application before the learned Trial Judge for expeditious hearing of the suit.

6. The appeal from order is accordingly disposed of. No costs.

7. In view of disposal of the appeal, pending civil application would not survive, the same is disposed of.

8. It is further clarified that the appeal itself being disposed of by the

present order, has no reflection on the rival contentions of the parties.

9. At this stage Mr.Surve has stated that the vakalatnama as filed by him is not reflected on the cause list. Office to take appropriate steps to find out the vakalatnama if it is filed. If the vakalatnama is not filed, Mr.Surve undertakes to file vakalatnama within one week.

(G. S. KULKARNI, J)