

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.949 OF 2023
WITH
INTERIM APPLICATION NO.17435 OF 2023
IN
APPEAL FROM ORDER NO.949 OF 2023

M/s. Vithaldas B. Zaveri & Sons
Private Limited & Anr.
V/S

....Appellants/Applicants

M/s. Patsons Leasing Private Limited & Ors.

....Respondents

...

WITH
APPEAL FROM ORDER NO.951 OF 2023
WITH
INTERIM APPLICATION NO.17437 OF 2023
IN
APPEAL FROM ORDER NO.951 OF 2023

Mrs. Poonam Kirti Zaveri & Ors.
V/S

....Appellants/Applicants

M/s. Patsons Leasing Private Limited & Ors.

....Respondents

...

Ms. Jyoti Chavan for the Appellants/Applicants in both AOs.

Mr. Jagdish N. Jayale a/w Mr. Jayesh J. Jayde for Respondent Nos.1 and 2
in both AOs.

...

CORAM: SANDEEP V. MARNE, J.
DATE : NOVEMBER 28, 2023.

P.C.:

1 The Appeals are filed challenging the order dated 17 November 2023 passed by the Holiday Judge of the City Civil Court thereby granting

ad interim relief in favour of Plaintiffs restraining Defendant Nos.1 to 4 from interfering in the occupation and possession of the suit shops. The *ad interim* order appears to have been passed by taking into consideration the fact that the sale deeds dated 6 May 2019 are registered. Ms. Chavan, the learned Counsel appearing for the Appellants seriously disputes this position and invites my attention to an endorsement by the Sub Registrar refusing to register the sale deeds. On the contrary, the learned Counsel appearing for Respondent Nos.1 and 2 would draw my attention to the endorsement by the Sub Registrar, registering the sale deeds in question. This is something which needs to be resolved by the City Civil Court while deciding the Notices of Motion.

2 In my view, instead of determining the correctness of the *ad interim* order dated 17 November 2023, it would be appropriate to request the City Civil Court to decide the Notices of Motion finally.

3 Ms. Chavan, the learned Counsel appearing for the Appellants would submit that on the basis of the *ad-interim* order dated 17 November 2023, the Plaintiffs have forcibly taken over possession of the suit shops from Defendant Nos.1 to 4. The learned Counsel appearing for the Respondents disputes this position. Ms. Chavan, however expresses an apprehension that based on the forcible possession obtained from Defendant Nos.1 to 4, the Plaintiffs are likely to create further third party rights in respect of the suit shops. The learned Counsel appearing for the

Respondent Nos.1 and 2 on instructions of the Director of Plaintiff No.1 (Respondent No.2) who is present in Court fairly makes a statement that till the final decision in the Notices of Motion, the Plaintiffs/Respondent Nos.1 and 2 shall not create any further third party rights, or part with possession of the suit shops and also Plaintiffs/Respondent Nos.1 and 2 shall not file any application with the Society for transfer of membership in respect of the suit shops. The statement is recorded and accepted.

4 The Appeals are accordingly disposed of by requesting the City Civil Court to decide the Notices of Motion expeditiously, preferably within a period of eight weeks from today. The City Civil Court shall not be influenced by the *ad interim* order dated 17 November 2023 while deciding the Notices of Motion finally.

5 In view of the disposal of the Appeals, the Interim Applications also stand disposed of accordingly.

6 Parties to act on an authenticated copy of this order.

(SANDEEP V. MARNE, J.)