

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.27 OF 2023

IN

INTERIM APPLICATION NO.562 OF 2020

WITH

INTERIM APPLICATION (L) NO.22453 OF 2022

IN

APPEAL NO.27 OF 2023

Francis Quinny And 3 Ors.

...Appellants

vs.

Abbot Anthony Quinny

...Respondent

....

Mr. Asim Naphade, i/b. Y.R. Shah, for the Appellants.

Mr. Dinyar Madon, Senior Advocate, a/w. Mr. Rajesh Devgharkar, Ms. Neha Patil and Mr. Sanket Naik, i/b. Akshay Vijay Kamble, for the Respondent.

....

**CORAM: K.R. SHRIRAM &
RAJESH S. PATIL, JJ.**

DATE : 28th MARCH 2023

P.C:-

This appeal is impugning an order dated 16th March 2021, passed by the learned Single Judge, rejecting appellant's prayers for interim relief.

2. Appellant is aggrieved by the observations made by the learned Single Judge in the impugned order, where the court has

observed that appellant is prima facie guilty of perjury and contempt of court and that one untruth after another was being put by appellant before the court. The counsel also submitted that his main problem seems to be from para 3 and 10 of the order, where there is a reference to birth certificate entry in the Municipal Corporation of Greater Mumbai (MCGM) register of R/Central Ward. Mr. Naphade submitted, relying upon two documents, copies whereof are at page 138 and 139 of the appeal memo and form part of the rejoinder in the application, that there was no deliberate attempt to mislead the court by relying on incorrect documents. Mr. Naphade submitted that appellant did not apply to the wrong ward intentionally and it was a mistake. The appellant instead of applying to R/North Ward, applied to R/Central Ward. This, Mr. Naphade candidly submitted, was not so explained to the learned Single Judge.

3. In para 16 of the impugned order, we find no observations made by the learned Single Judge regarding these documents. Appellant was making an attempt to prove respondent as the one, who had produced a birth certificate that was false and fabricated and the court rejected the submission of appellant, who relied on documents issued by the different Ward.

4. In our view, the observations made in the order are only prima facie observations and the learned Single Judge having given liberty to appellant to lead evidence, there is nothing for us to interfere

in the impugned order.

5. Appeal, therefore, dismissed. Appellant to pay a sum of Rs.50,000/- as cost to respondent within four weeks from today.

6. Mr. Naphade, on instructions, states that the matter is yet to be listed for framing issue. The matter be listed for directions before the learned Single Judge on 21st April 2023.

7. We clarify that we have not made any observations on the merits of the matter.

8. Interim application, if any, stands disposed of.

(RAJESH S. PATIL, J.)

(K.R. SHRIRAM, J.)