

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO. 113 OF 2023
IN
COURT RECEIVER REPORT NO. 162 OF 2021
IN
SUIT NO. 695 OF 2012

Zainab Rafiullah Shaikh

... Appellant
(Org. Defendant No.3)

V/s.

Labh Singh Daya Singh & Ors..

... Respondents
(Resp.No.1-Original Plaintiff)
(Resp. Nos.2 and 3- Original
Defendant Nos.1 and 2)

WITH
INTERIM APPLICATION NO. 3033 OF 2023
IN
APPEAL NO. 113 OF 2023
WITH
APPEAL (L) NO. 19948 OF 2023 (NOB)

Mr. Ankit Lohia a/w Ms. Sneha Phene i/by Mr. Pramod Tambe
for Appellant.

Mr. Mayur Khandeparkar, Mr. Vikramjit Garewal a/w Mr. Umesh
Tawari, Ms. Siddhi Deolekar, Mr. Rhythm Rathod i/by Rashmi
Pendse for Respondent No.1.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.
DATED : 5th OCTOBER, 2023.**

P.C. :

1. The present Appeal was mentioned yesterday and urgent circulation was granted, pursuant to which, the matter was placed on board today.

2. It was pointed out by learned counsel for the Appellant that this Court had by an order dated 8th August, 2023 disposed of Appeal (L) No.19948 of 2023. Learned counsel for the Appellant pointed out that on that date i.e. 8th August, 2023, it was pointed out by learned counsel for the Appellant that the captioned Appeal did not appear on board since the same had been dismissed on 1st August, 2023 on the ground of failure to remove office objections. He submitted that it was also pointed out that since the advocates for the Appellant had become aware of this fact only just prior to the date of hearing, steps were being taken to restore the said Appeal and that arguments had in fact been advanced on both Appeals on that date. Learned counsel for the Appellant

however pointed out that the order dated 8th August, 2023 however bears no reference to the order dated 21st March, 2023 and only bears reference to the order dated 16th March, 2023. He thus submitted that since arguments on both the Appeals were heard and decided by the order dated 8th August, 2023, the order dated 8th August, 2023 be corrected to also mention the order dated 21st March, 2023.

3. Mr. Khandeparkar, learned counsel appearing on behalf of Respondent No.1 fairly submits that it was correct that both the Appeals were argued on that date and does not oppose the correction of the order dated 8th August, 2023 to reflect mention of the order dated 21st March, 2023. He however takes exception to the fact that clarification was sought only after the Special Leave Petition was filed.

4. Given that, there is no dispute to the fact that on 8th August, 2023 arguments on both Appeals were advanced and Appeal (L) No.19948 of 2023 was in respect of both orders. We deem it fit to clarify this aspect. Therefore, paragraph No.4 of the order dated 8th August, 2023 be read as under;

"4. *The present Appeal takes exception to the order dated 21st March, 2023 passed consequent to the order dated 16th March, 2023, by which the Court Receiver, High Court of Bombay was directed to take physical possession of the suit premises from the Appellant (who is the Defendant No.3 in the said Suit) and put his lock, seal, and board thereon."*

5. In view of the above clarification, the captioned Appeal No.113 of 2023 is also disposed of in terms of the order dated 8th August, 2023 along with all Interim Applications filed therein.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)