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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2199 OF 2024

M/s. Jasa Lumbaji & Co.

.. Petitioner

Versus

Kailash Rajaram Walekar

.. Respondent

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- Mr. Sanjiv Sawant a/w. Mr. Sunil Lahane, Ms. Mekhala More and Ms. Bhakti Wast i/by the Juris Partners for Petitioner.
 - Mr. Kunal Maskar a/w. Ms. Urvi Shah, Advocate for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 23, 2024.

P.C.:

1. Heard Mr. Sawant, learned Advocate for Petitioner and Mr. Maskar, learned Advocate for Respondent.

2. Mr. Sawant would submit that an order of *status quo* dated 22.12.2023 has been passed. Admittedly it is an interlocutory order. Mr. Maskar raised the ground of maintainability of Petition to challenge the order.

3. Both the learned Advocates are *ad idem* that the learned Trial Court is seized with the hearing of the Application filed under Exhibit “9” made by the Plaintiff for a restraint on the Defendants not to create any third party rights in the Suit properties as also Exhibit “5”.

4. Mr. Sawant would submit that there are several suit properties which are broadly demarcated in two segments namely encroachment free portion and other properties (being encroached). Terms and conditions governing the parties under MOU and any ancillary documents thereto undoubtedly will have to be considered by the learned Trial Court alongwith all subsequent developments strictly in accordance with law while hearing and deciding Exhibit “9” or Exhibit “5”. All that this Court can direct is that the learned Trial Court shall determine Exhibit “5” alongwith Exhibit “9” together by hearing the parties strictly on merits and in accordance with law and pass a reasoned speaking order.

5. It is clarified that, this Court has not opined on any merits of the matter as also not gone into any facts of the present case. The learned Trial Court is also directed by this Court to pass a comprehensive speaking order while determining the above two Applications below Exhibit “5” and Exhibit “9”. Without opining on any merits of the matter as also the issue of *status quo* order dated 22.12.2023, the Writ Petition is disposed of in the above terms keeping all contentions of both parties expressly open.

6. I am informed by both the learned Advocates that the learned Trial Court shall be hearing Exhibit “9” on 16.03.2024. Learned Trial Court is therefore directed to hear Exhibit “5” in the Suit

proceedings alongwith Exhibit “9” on 16.03.2024 also. Both the parties are put to notice that both the above Applications shall be heard on that date. Both the learned Advocates shall also inform their counter parts as also their respective clients in Thane.

7. None of the parties shall seek adjournment beyond 16.03.2024 for the hearing of the above proceedings so as to protract the *status quo* order any further in view of the exigency expressed by Mr. Sawant.

8. Needless to state that after hearing the parties, the learned Trial Court shall pass a reasoned order thereafter as per the convenience of the Court, but without much delay and within a reasonable time.

9. With the above directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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