

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.232 OF 2024

Sindhu Sahu

.. Petitioner

Versus

Salim Auto Garage and Ors.

.. Respondents

-
- Mr. Rushikesh Patil a/w. Mr. Pritam Nigade, Advocates for Petitioner.
-

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 10, 2024

P.C.:

1. Heard Mr. Patil, learned Advocate for Petitioner.
2. Perused the impugned order passed below Exhibit-85 in Regular Civil Suit No.1784 of 2014, which is at Exhibit-E page No.56 of the Writ Petition. Application came to be filed seeking *mesne* profit under the provisions of Section 151 of Code of Civil Procedure, 1908 (for short '**CPC**') by Defendant No.1 considering pendency of the suit proceedings filed by the Plaintiff. Suit is for declaration and permanent injunction on the basis of adverse possession of the suit property by the Plaintiff. According to the Petitioner who is Defendant in the suit, the Plaintiff has accepted fact that she was owner of the suit property. However to consider that declaration is sought on the basis of the adverse possession, parties will have to succeed or stand defeated on the strength of their respective case / evidence before the

learned Trial Court.

3. The Application filed by Defendant seeking a direction to Plaintiff to the pay an amount of Rs.50,000/- to the Defendant No.1 in the interregnum until the decision in the suit is arrived at is not permissible in law at all. Such an application can only be filed under the extant provisions of Order XX-A of the CPC and only after completion of an enquiry which is taken to its fruition in accordance with law and not otherwise as an interim measure.

4. In that view of the matter, I am inclined to agree with the reasons given by the learned Trial Court in paragraph Nos.3 and 4 of its order dated 13.06.2023 and it does not call for any interference by this Court. Order dated 13.06.2023 therefore stands upheld. At request of Mr. Patil and considering the fact that the Civil Suit has been instituted in the year 2014, learned Trial Court is requested by this Court to dispose of the Suit proceedings as expeditiously as possible and in any event within a period of eighteen (18) months from today.

5. With the above directions, Writ Petition is dismissed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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