

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 790 OF 2024
WITH
INTERIM APPLICATION NO. 14574 OF 2024

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Dnyaneshwar Janardan Koli ...Appellant
Versus
The State Of Maharashtra And Ors ...Respondents

Adv. Pradeep J. Thorat i/b. Adv. Megha R. Shigavan, for Appellant.
Mr. A.R. Patil, Addl. G.P. for Respondent/State.

CORAM : M.M. SATHAYE, J.

DATE : 4th DECEMBER, 2024

P.C. :

1. The appeal is filed challenging the impugned order dated 03.09.2024 passed by City Civil Court at Dindoshi in Notice of Motion No. 609 of 2015. By the said impugned order, a motion filed by the Appellant/Plaintiff for restraining the Respondent/State from implementing the impugned notices dated 22.11.2012 and orders dated 28.02.2013, was rejected.

2. Learned counsel for the Appellant submitted that on 13.08.2024, a new Advocate had filed vakalatnama on behalf of the Appellant and the application below Ex.11 was preferred seeking adjournment simplicitor. He submitted that while dealing with the adjournment application, the Trial Court has rejected the main motion itself. Learned counsel for the Appellant submits on

instructions from the Appellant/Plaintiff No.1a, which instructions would also bind Respondent Nos. 4 & 5 - co-Plaintiff Nos.1b & 1c, that the Plaintiffs will proceed with the hearing of the motion on merits and will not seek any further adjournment.

3. Learned Addl. G.P. on behalf of Respondent/State submitted that the status quo was granted in the motion, since 08.04.2013 and the Plaintiffs are delaying the matter, for one reason or the other which is also recorded in the impugned order. He submits that the Plaintiffs be put heavy costs, if opportunity is to be given.

4. I have perused the application below Ex.11, which was filed for seeking adjournment. It appears that by the impugned order motion itself is dismissed.

5. In that view of the matter, in order to afford one last opportunity to the Appellant (Plaintiffs), following order is passed **disposing of** the Appeal from Order and pending interim application.

(a) The impugned order is set aside.

(b) Subject to the Appellant depositing costs of Rs.25,000/- to High Court Legal Services Authority within a period of 2 weeks from today, the concerned motion is restored to the file for hearing, in accordance with law, on its own merits and ad-interim protection which was operating during the pendency of motion, is revived and will continue during the hearing of the motion.

- (c) The Appellant and Respondent Nos.4 & 5, who are co-Plaintiffs with the Appellant, are directed not to seek any adjournment for hearing of the motion.
 - (d) It is clarified that if the costs are not deposited or if an adjournment is sought by the Plaintiffs on the next date, as may be fixed by the Trial Court, the motion will stand dismissed without further reference to either Trial Court or this Court.
6. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)