

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.467 OF 2022

Madanmohan Chandrabhan Gupta ...Petitioner
Sole Proprietor of -
M/s. Advance Advertisers

Versus

Santacruz (W) Education Society ...Respondent

WITH
INTERIM APPLICATION NO.7741 OF 2024
IN
WRIT PETITION NO.467 OF 2022

Santacruz (West) Education Society ...Applicant

IN THE MATTER BETWEEN:

Madanmohan Chandrabhan Gupta ...Petitioner
Sole Proprietor of -
M/s. Advance Advertisers

Versus

Santacruz (W) Education Society ...Respondent

WITH
WRIT PETITION NO.5647 OF 2024

Santacruz (West) Education Society ...Petitioner

Versus

Madanmohan Chandrabhan Gupta ...Respondent
Sole Proprietor of -
M/s. Advance Advertisers

Mr. Vishal Kanade a/w Krushang Kedia i/b Girish Kedia, for the
Petitioner in WP/467/2022 and for the Respondent in WP/5647/2024.

Mr. S. M. Gorwadkar, Senior Advocate a/w Yuvraj A. Takate i/b
Shashank C. Thatte, for the Respondent in WP/467/2022 and for the
Petitioner in WP/5647/2024.

CORAM: MADHAV J. JAMDAR, J.
DATED: 01 OCTOBER 2025

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P.C.:

1. Heard Mr. Sanjeev Gorwadkar, learned Senior Counsel for the Petitioner in Writ Petition No.5647 of 2024 and Mr. Kanade, learned Counsel appearing for the Petitioner in Writ Petition No.467 of 2022 and.
2. At the outset, Mr. Kanade, learned Counsel seeks leave to amend the title of Writ Petition No.467 of 2022 as per the amended title of the suit. Leave as sought is granted. Amendment be carried out forthwith. Re-verification is dispensed with.
3. In Writ Petition No.5647 of 2024 filed by the Petitioner - Santacruz (West) Education Society (Defendant), the challenge is to the Order dated 26th November 2021 passed by the learned Appellate Bench of the Small Causes Court at Mumbai in Misc. Appeal No.98 of 2021 as also the Order dated 6th May 2021 passed by the learned Judge, Small Causes Court at Mumbai below Application bearing Exhibit-10 in L.D. Suit No.32 of 2021.
4. The operative part of the said Order dated 6th May 2021 passed by the learned Judge, Small Causes Court, Mumbai reads as under :-

“: ORDER :”

1. *The application (Exhibit No.10) is allowed.*
2. *The defendant, their servants and agents are hereby temporarily restrained by an order of injunction from*

dispossessing and/or disturbing the possession of the plaintiff and/or interfering with the hoarding business by the plaintiff from the suit premises, likewise from obstructing the plaintiff, their servants and agents in their ingress and egress to the suit premises for changing the advertisements on the hoardings carrying out repairs and maintenance to the hoarding structures and also carrying out repairs and maintenance of electricity connection in the suit premises, so also from demolishing or damaging the hoarding structure constructed by the plaintiff on the suit premises viz. 2 portions of land admeasuring 10' x 40', one in the South East corner and one in the South West corner of the property belonging to the defendant at 85-B, T.P.S. II, Juhu Road, opposite Balkanji Bari, Santacruz (West), Mumbai-400 054 which is more particularly described in prayer clause (a) of the application till final decision of the suit.

3. *Costs in cause."*

5. The said order dated 6th May 2021 was challenged by the Petitioner-Santacruz (West) Education Society by filing Miscellaneous Appeal No.98 of 2021. The learned Appellate Bench of Small Causes Court, Mumbai, by Order dated 26th November 2021 disposed of said Miscellaneous Appeal No.98 of 2021 by passing the following operative Order :-

“: ORDER :

1. *The Miscellaneous Appeal is partly allowed.*
2. *The order of learned Trial Court is confirmed to the extent of temporary injunction restraining the defendant from dispossessing and disturbing the hoarding structure by himself or through any other person and for further restraint on demolishing or damaging the hoarding structure.*

3. *The order of learned Trial Court is set aside to the extent of permission to the plaintiff to display advertisement for this hoarding.*
 4. *It is further condition of temporary injunction that the injunction order in favour of the plaintiff is subject to condition that plaintiff to deposit interim compensation in the Court, in terms that the expired license for the period from the date of expiry of licence till the date of this order and shall continue for the period for which the hoarding remains over the suit property.*
 5. *In above terms, Miscellaneous Appeal is disposed of.*
 6. *Inform the learned Trial Court accordingly.”*
6. The Order dated 26th November 2021 of the learned Appellate Bench of Small Causes Court, Mumbai, is as set out earlier challenged by the Petitioner-Santacruz (West) Education Society by filing Writ Petition No.5647 of 2024 and also challenged by Madanmohan Chandrabhan Gupta (Plaintiff) inter alia challenging Clause No.3 of the said Order dated 26th November 2021 by filing Writ Petition No.467 of 2022.
7. In Writ Petition No.467 of 2022 filed by Madanmohan Chandrabhan Gupta (Plaintiff), a learned Single Judge by Order dated 18th February 2022 has stayed Clause No.3 of the operative part of the impugned Order dated 26th November 2021, subject to the payment of fees as agreed. The said order is in operation till date.
8. This matter was substantially heard yesterday. Today, Mr. Gorwadkar, learned Senior Counsel for the Petitioner in Writ Petition

No.5647 of 2024 and for the Respondent in Writ Petition No.467 of 2022 and Mr. Kanade, learned Counsel for the Respondent in Writ Petition No.5647 of 2024 and for the Petitioner in Writ Petition No.467 of 2022, after taking instructions from the respective parties, state that, by consent of the parties, the Order dated 26th November 2021 passed by the learned Appellate Bench of the Small Causes Court at Mumbai in Misc. Appeal No.98 of 2021 be modified and the suit filed by both the parties be expedited.

9. Accordingly, by consent of the parties Order dated 26th November 2021 passed by the learned Appellate Bench of the Small Causes Court at Mumbai in Misc. Appeal No.98 of 2021 is modified as below :-

- i. The Plaintiff - Madanmohan Chandrabhan Gupta shall pay an amount of Rs.2,50,000/- per month with effect from 1st September 2025 to the Defendant - Santacruz (W) Education Society. Such payment is to be made on or before the 10th day of each succeeding month. First such payment shall be made on or before 10th October 2025.
- ii. It is clarified that, if there is a single default in payment of this compensation, then in that case the Plaintiff - Madanmohan Chandrabhan Gupta is restrained from user of the subject

hoarding.

- iii.** The Order dated 26th November 2021 passed by the learned Appellate Court in Misc. Appeal No.98 of 2021 is confirmed, subject to the above modification.

10. The Santacruz (W) Education Society has filed eviction Suit bearing L.E. Suit No.3 of 2023 against Madanmohan Chandrabhan Gupta. As far as the Suit filed by Madanmohan Chandrabhan Gupta i.e. L.D. Suit No.32 of 2021, the issues are already framed. In said L.E. Suit No.3 of 2023 stage is of framing of the issues. Both these suits are required to be tried together. In the facts and circumstances, as the subject hoarding is in the property of the school, the learned Trial Court is requested to dispose of both these Suits i.e. L.D. Suit No.32 of 2021 and L.E. Suit No.3 of 2023, expeditiously preferably by 31st December 2026.

11. Both the Writ Petitions are disposed of in above terms with no order as to costs. As the Writ Petitions are disposed of, nothing survives in the Interim Application and the same is also disposed of.

12. It is clarified that, this Order is passed without prejudice to the rights and contentions of both the parties and all contentions of both the parties are expressly kept open.

[MADHAV J. JAMDAR, J.]