

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.178 OF 2025

Mrs. Naseema Fariduddin Siddiqui

Appellant
.. (Orig. Plaintiff)

Versus

Mr. Rais Ahmed Siddiqui

Respondent
.. (Orig. Defendant)

-
- Mr. Hemant Shukla a/w Ms. Janhavi Kadam, Advocates for Appellant.

.....
CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 11, 2025.

P.C.:

1. Heard Mr. Shukla, learned Advocate for Appellant.
2. This present Appeal from Order assails order dated 18.09.2023 passed in Notice of Motion No.2708 of 2022 by the Bombay City Civil Court, Dindoshi filed by Plaintiff for temporary injunction which came to be rejected. Parties are referred to as Plaintiff and Defendant for convenience.
3. On 01.12.2025 when the matter was listed on board the following order was passed:-

"1. Heard Ms. Kadam, learned Advocate for Appellant.

2. Present Appeal from Order (AO) challenges the order dated 18.09.2023. Injunction has been refused by giving cogent and detailed reasons rather injunction can only be granted if prima facie the party is able to show that he / she is the owner of the suit property. Dispute between parties is with respect to joint-ownership of the suit property as claimed by Plaintiff on the basis of a notarized document executed between Plaintiff

and Defendant. The rival claims have been prima facie gone into by the learned Trial Court and it is derivated in paragraph No. 40 of the impugned order that whether the Plaintiff can be ascertained to be the co-owner of the property would be part of merit in the suit proceedings. That apart there is categorical finding returned that since 2007 Defendant is in possession of the suit property which is a hutment. Lis between Plaintiff and Defendant is whether the Suit hutment was jointly purchased by them or not. Unless the same is adjudicated, Plaintiff can not be entitled to any injunction at this stage which has been rightly determined in the order dated 18.09.2023. Suit is pending before the Trial Court.

3. *Today Ms. Kadam, learned holding Advocate informs the Court that her Senior is not present and he is travelling for 4 days. In that view of the matter, list the matter on **8th December, 2025** for hearing and passing of orders under the caption "**First on Board**".*

4. Mr. Shukla, learned Advocate for Plaintiff would submit that the Trial Court failed to consider the fact that Plaintiff and Defendant jointly own the suit premises which was purchased under the Agreement of Sale date 05.01.1995 from one Mr. Mohammed Yakub for consideration which was equally shared by Plaintiff and Defendant. He would submit that Defendant behind Plaintiff's back approached all concerned SRA Authorities and issued documents in his name as the sole owner of the Suit premises by suppressing the fact that the suit premises were jointly owned by Plaintiff and Defendant.

4.1. He would submit that Defendant further executed Leave and License Agreements with M/s. Life Panacea and M/s. Apollo Pharmacies Ltd. without her consent even though Plaintiff is a joint owner of the suit premises. He would submit that the Assessment Tax Bills issued by the Municipal Corporation stand in Plaintiff's name yet

this vital evidence of ownership was also not considered by the Trial Court while passing the impugned order. He would further submit that the NOC appended at page No.99 of the Appeal from Order relied upon by Defendant contains forged signature of Plaintiff, which has been established through documents obtained under the RTI Act.

4.2. He would submit that Defendant earned rental income from the suit premises from M/s. Life Panacea but failed to share any part of it with Plaintiff. He would submit that it is pertinent to note that Defendant relied upon the 1995 Agreement in LC Suit No. 1422 of 2004 to establish joint ownership which further dilutes Defendant's case of sole ownership. He would submit that Defendant himself admitted in his Affidavit that he let out the suit premises on Leave and License basis which was not considered by the Trial Court while passing the impugned order. He would submit that Plaintiff to safeguard her rights made an Application dated 11.07.2023 to the SRA seeking correction of Annexure II.

4.3. He would submit that Plaintiff produced Aadhaar Card record, Census documents, electricity bills at page Nos.46, 47, 90 and 92 and assessment bills which clearly establishes Plaintiff's possession and ownership in the suit premises. Hence, he would submit that the impugned order is contrary to law, equity and the evidence on record and therefore deserves to be quashed and set aside and the present Appeal from Order be allowed in the interest of justice.

5. I have heard Mr. Shukla, learned Advocate for Plaintiff and with his able assistance perused the entire record of the case. Submissions made by the learned Advocate has received due consideration of the Court.

6. At the outset, it is seen that at this interlocutory stage grant of temporary injunction is governed by the settled law of *prima facie* case, balance of convenience and likelihood of irreparable injury. A party seeking injunction in respect of immovable property is required to establish at least a *prima facie* right, title or entitlement to possession.

7. In the present case, Plaintiff has founded her claim of joint ownership on the basis of a notarised document executed between the parties. In my opinion, the Trial Court, upon a detailed consideration of the material on record has correctly held in paragraph No.40 of the impugned order that the question whether Plaintiff is the co-owner of the suit premises is a disputed factual issue which requires adjudication after evidence and cannot be conclusively determined at the interlocutory stage on *prima facie* material. Hence the said reasoning does not suffer from any perversity in my opinion.

8. It is seen that it is an admitted position emerging from the pleadings that Defendant has been in possession of the suit premises since the year 2007. The *lis* between the parties pertains to whether the suit premises (hutment) was jointly acquired under the Agreement

of Sale dated 05.01.1995 and whether the consideration was jointly contributed and until such disputed questions are adjudicated in the Suit, Plaintiff cannot seek to dispossess the Defendant who is admittedly in settled possession.

9. The submissions of the learned Advocate for Plaintiff that Municipal Assessment Bills stand in the name of Plaintiff or Aadhaar records, census documents and electricity bills demonstrate her possession however do not *prima facie* establish her joint or co-ownership. Such documents at the best reflect existence of the residence or correspondence and do not divest Defendant of his long-standing possession. In my opinion these material and documents are subject to strict proof during trial and at this stage cannot form the basis of an injunction.

10. The allegations regarding alleged forgery in the NOC relied upon by Defendant or the claim that Defendant let out the suit premises without Plaintiff's consent similarly involve disputed questions of fact. Whether any such document is forged or whether Plaintiff had any proprietary right enabling her consent to be necessary are all matters which can be answered only in trial. It is argued that at Page no. 94 Leave & License Agreement is appended and Appellant has given her NOC to the Licensee to obtain FDA registration. That by itself is not proof of co-ownership unless proved at Trial. Hence, the Trial Court has rightly refrained from entering upon such issues at the

interlocutory stage.

11. Plaintiff's reliance on Defendant's alleged admission in LC Suit No.1422 of 2004 regarding the 1995 Agreement also requires appreciation of pleadings and evidence in that matter. Such disputed reliance cannot by itself constitute a *prima facie* finding of co-ownership in the present proceedings.

12. The suit being pending and the Trial Court having examined the rival claims at the threshold with cogent reasons, in my opinion no case is made out warranting interference of this Court. I find no perversity in the order dated 18.09.2023 passed by the Bombay City Civil Court, Dindoshi. The impugned order is upheld and confirmed. Appeal from Order fails.

13. All observations made herein are *prima facie* and confined to adjudication of this Appeal from Order. All contentions of the Appellant are expressly kept open. The Trial Court shall decide the Suit on its own merits and strictly in accordance with law.

14. In view of the above observations and findings in the present case Appeal from Order is dismissed.

[MILIND N. JADHAV, J.]

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