

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.9891 OF 2024
IN
FIRST APPEAL NO. 1070 OF 2019

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Lilyra Ramesh Rao

...Applicant

Versus

Aggie (Agnes) Alfred Pereira (Since deceased)

....Respondent

Mr.Sajid Shamim i/by S. Shamim and co. Advocate for Applicant in IA No.9891/2024. (through V. C.)

Mr. Prashant Aher, Advocate for Respondent in IA and for orig. appellant in F.A. (through V. C.)

CORAM : KISHORE C. SANT, J.

(through Video Conferencing)

DATE : 04th MARCH 2025

PC :-

1. Heard the parties at length.
2. By order dated, 20th February 2024, this Court had directed the defendant to file an affidavit stating as to how the defendant could not get the meaning of the order passed by this Court dated 26th February 2024 stating that, clauses “A” and “B” of the operative order are contradictory to each other. The operative order dated 26th February 2024 is reproduced below.

3. The learned Advocate for the defendant states that, there was some confusion in her mind about the interpretation of the order passed by this Court. By clause “A”, this Court had stayed the order passed by the Trial Court. By clause “B”, the condition was put upon the respondent while granting stay to the order passed by the Trial Court. If at all, there was any confusion, it was for the defendant to get some clarification by filing necessary application to this Court. Instead, she sent an E-mail , dated 5th August 2024 to this applicant expecting to get clarification from this Court. From further E-mail dated 10th October 2024, it is seen that, the another Judge of this Court had asked the respondent to get necessary clarification if all necessary. There is even a communication vide E-mail dated 10th October 2024 accepting this position. From the said E-mail, it is seen that, the defendant even know that, it is for the defendant to file an application as expressed by the Court. Even till now, there is no clarification sought by the defendant.

4. On one hand, the defendant has not obeyed the order passed by this Court. If at all, the defendant is to be believed then any prudent

defendant would have approached this Court seeking clarification. However, nothing was done. This clearly shows that the defendant is not willing to obey the order passed by this Court and is trying to create a confusion when in fact there is none. While staying clause “B” and it is the condition for grant of stay in clause “A”. In clause “B”, this Court had specifically directed the defendant not to restrain the plaintiff from going to the first of the suit property.

5. It is on this background, the plaintiff is required to file this application seeking clarification of the order. Again, injunction is sought in prayer clause “B” and further police protection is also prayed for.

6. Looking to all above facts, it seems that, the defendant does not deserve any interim relief from this Court. In view of the same, following order ;

ORDER

i. The Interim Application stand allowed in terms of prayer clause “A” and “B”.

- ii. It is clarified that clause “B” of the order dated 26th February 2024 was condition towards grant of stay in prayer clause “A”, the order be read like this. The defendant had made the plaintiff to file this application unnecessary. It would be appropriate to saddle some cost. The cost of Rs. 25,000/- be paid by the defendant to the plaintiff within four weeks from today.
- iii. If the occasion arises, the plaintiff shall file an application to the Police Station and seek police aid whenever required.
- iv. Needless to say that, the plaintiff is at liberty to proceed with the contempt proceeding independently for not obeying the order.
- v. The Interim Application stands disposed off.

[KISHORE C. SANT, J.]