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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO.96 OF 2024
IN
INTERIM APPLICATION NO.2690 OF 2023

Denor Industrial Premises

.. Appellant/
Original Defendant No.41

Versus

Merit Magnum Constructions & Ors.

.. Respondents

Mr.Ponvel Nandarajan, Appellant present in person.

None for the Respondents.

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: JANUARY 24, 2025

P. C.

1. The above Appeal has been filed challenging the Order dated 26th February 2024 under which the learned single Judge dismissed the Interim Application filed by Original Defendant No.41 (“the Appellant”) to dismiss the above Suit against Original Defendant No.41. According to the Appellant, the learned single Judge was incorrect in dismissing the Application in light of the averments made by the Plaintiff in paragraph 5 of the Notice of Motion No.1732 of 2019. According to the Original Defendant No.41, the Plaintiff

apparently made a statement that by a registered Conveyance Deed dated 18th August 1989, Defendant No.41 acquired ownership rights in the suit properties from Defendant Nos.1 to 39. It is the case of the Appellant/Original Defendant No.41 that the said admission would entail a dismissal of the Suit qua Defendant No.41 because it is the case in the Plaint that Defendant No.41 Society is not the owner of the land in question.

2. We have perused not only the impugned Order but also the so called admission on behalf of the Plaintiff purportedly made in Notice of Motion No.1732 of 2019.

3. After perusing the impugned Order and the so-called admission, we are of the view that there is absolutely nothing wrong in the Order passed by the learned single Judge, and which is impugned before us. The learned single Judge, in paragraphs 5, 6 and 7, examines the entire case of the Plaintiff and thereafter, comes to the conclusion, and in our view correctly so, that it cannot be stated that the Plaintiff has given up their claim in respect of the property described at Exhibit A1 to the Plaint which would then entail dismissal of the Suit against Original Defendant No.41.

4. In these circumstances, we find no merit in this Appeal and the same is accordingly dismissed. However, this shall be no order as to costs.

5. Considering that the Suit is of the year 2007, we grant liberty to Defendant No.41 to move the learned single Judge and have the suit placed on board for framing issues. If such an Application is made, learned single Judge is requested to frame the issues and thereafter, pass necessary directions with reference to the parties leading their evidence so that the Suit can go to a hearing as expeditiously as possible.

6. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]