

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (LODGING) NO.569 OF 2004  
IN  
NOTICE OF MOTION NO.3706 OF 2003  
IN  
SUIT NO.3944 OF 2003

Anandibai P. Patel

....Appellant  
Ori.Deft.

V/s.

Ramesh Vasant Juker

....Respondent  
Ori.Plff.

Mr.P.K. Vyas for the Appellant.

Mr.A.M. Saraogi for the Respondent.

**CORAM : A.P. SHAH AND**  
**S.J. VAZIFDAR, JJ.**  
**DATED : 28TH FEBRUARY, 2005.**

**P.C. :**

1. Appeal admitted and by consent taken up for final hearing.

2. The Defendant/Appellant has filed this Appeal against the order of the learned single Judge making the Notice of Motion absolute in terms of prayer (a) excluding the portion bracketed by the learned Judge.

3. By the said order, the Court Receiver was

directed to take possession of the premises and to appoint the Defendant/Appellant as his agent on usual terms and conditions except the condition of royalty and security. There can be no exception to this part of the order. The Appellant is not prejudiced in any manner by the same. Nor is the Appellant prejudiced by the order directing him to maintain accounts of the business of the eating house and submit accounts every six months to the Court Receiver with a copy to the Plaintiff/Respondent.

4. The only serious objection raised on behalf of the Appellant was to that part of the order granting liberty to the Plaintiff/Respondent to take out a fresh Notice of Motion for appropriate reliefs after accounts are submitted by the Defendant. This matter too need not detain us any further as parties agree that the order to this extent be set-aside. The parties further agree that the Respondent/Plaintiff shall be at liberty to take out a fresh Notice of Motion for appropriate reliefs only in the event of the Appellant not complying with the order of the Court regarding furnishing accounts and as an agent of the Court Receiver. We order accordingly.

5. The Appeal is accordingly disposed of. There

shall be no order as to costs.