

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.4 OF 2007

M/s.Paras Constructions ...Appellant
vs.
Panalal D.Shethia & Anr. ...Respondents

Mr.D.S.Parikh with Ms U.N.Bangera for the Appellant
Mr.N.V.Walawalkar i/b Ms C.B.Khona for Respondent No.1.
Ms Geeta Joglekar for Respondent No.2.

CORAM: A.S.OKA,J.
DATE : APRIL 30,2007.

P.C.:

1. Heard the learned Senior Counsel for the parties. The challenge in this Appeal from Order is to the order dated 13th November 2006 passed by the learned Judge of the City Civil Court by which ad-interim order granted in favour of the Appellant-original Plaintiff was vacated.

2. After having heard the learned Senior Counsel for the parties, I find that no case is made out for interference at this stage as the Notice of Motion for interim relief taken out by the Appellant/Plaintiff is still pending.

3. The learned Senior Counsel for the Appellant has invited my attention to the statement made in the Affidavit filed by the first Respondent to the effect that third party interests have been created in respect of the suit property. He stated that no particulars of the transaction have been given to the Appellant as a result the Appellant could not apply for impleading the said third party as a party Defendant to the suit. The learned Senior Counsel appearing for the first

Respondent states that necessary particulars of the transaction along with xerox copy of the relevant documents will be furnished to the Advocate on record of the Appellant within a period of one week from today.

4. Considering the fact that Notice of Motion is pending for a long time, the same deserves to be heard expeditiously. The learned Trial Judge will permit the Appellant to carry out amendment to the plaint as well as to the pending Notice of Motion for impleading the third party after particulars are supplied by the first Respondent.

5. Hence, I pass the following order :

i) Appeal is dismissed with no order as to costs.

ii) The Trial Court will permit the Appellant to carry out amendment to the plaint as well as the Notice of Motion for the purpose of impleading the third party on a formal application being made by the Appellant-Plaintiff.

iii) Hearing of the Notice of Motion is expedited.

iv) All contentions of the parties on merits of the pending Notice of Motion and the suit are expressly kept open.

v) If the written statement is tendered by the first Respondent on or before 11th June 2007, the Trial Court will

accept the same.

JUDGE