

(2009) 03 SC CK 0141

In the Supreme Court Of India

Case No : Civil Appeal No. 1788 of 2009 (Arising out of SLP (C) No. 22196 of 2007)

Mehul Mahendra Thakkar @ Karia

APPELLANT

Vs

Meena Mehul Thakkar @ Karia

RESPONDENT

Date of Decision : 23-03-2009

Acts Referred:

Citation : (2009) 2 AWC 1733 Supp : (2009) 4 JT 218 : (2010) 1 OLR 50 : (2009) 4 SCALE 536 : (2009) 14 SCC 48

Hon'ble Judges : Tarun Chatterjee, J;H. L. Dattu, J

Bench : Division Bench

Advocate : Rishi Kesh and Rajiv Dewan, Avds, for the Appellant; Vinay Navare and Abha R. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

1. Leave granted.
2. The order passed by the High Court of Bombay in Civil Application No. 238 of 2007 filed in Family Court Appeal No. 128 of 2007 dated 5.10.2007 is the subject matter of this appeal.
3. By the impugned order, the court has directed the Court Receiver to take possession of the flat from the appellant and induct respondent-wife in the flat during the pendency of the appeal.
4. In the appeal filed, the appellant has called in question the correctness or otherwise of the findings and the conclusion reached by the Family Court in Petition No. A-1072/2000 dated 6.2.2007, wherein the Family Court has reached the conclusion that both the husband and wife are joint owners of flat bearing No. 303, Rajesh Nagar Co-operative Housing Society Ltd., Borivali (West), Mumbai.
5. Even before giving a verdict on the findings and the conclusions reached by

the Family Court, by way of interim relief, the court has granted the main relief itself. This, in our opinion is unsustainable. It is settled legal position, that by way of interim relief, final relief should not be granted till the matter is decided one way or the other.

6. In view of the above, we allow this appeal and set aside the order by the High Court in Family Court Appeal No. 128 of 2007 dated 5th day of October, 2007. In view of the peculiar facts and circumstances of this case, we request the court to dispose of the appeal as early as possible and at any rate within an outer limit of six months from the date of receipt of copy of this Court's order.