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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

APPEAL FROM ORDER NO. 1412 OF 2013

**WITH
CIVIL APPLICATION NO. 1571 OF 2013**

Dattaram MohiteAppellant.

Vs.

Deputy Collector (Enc./Rem.) &
the Competent Authority -Bandra
Division & Ors.

....Respondents.

WITH

APPEAL FROM ORDER NO. 1413 OF 2013

**WITH
CIVIL APPLICATION NO. 1670 OF 2013**

Govind Yashwant NaikAppellant.

Vs.

Deputy Collector (Enc./Rem.) &
the Competent Authority -Bandra
Division & Ors.

....Respondents.

WITH

APPEAL FROM ORDER NO. 1414 OF 2013

**WITH
CIVIL APPLICATION NO. 1669 OF 2013**

Gitanjali Hirachand Warik w/o.

Hirachand Damaji Warik & Ors.

....Appellants.

Vs.

Deputy Collector (Enc./Rem.) &
the Competent Authority -Bandra
Division & Ors.

....Respondents.

Mr. Yusuf Khan i/by Ms. A.R. Awasthi & Tushar Kochare for the
Appellants.

Mr. D. A. Nalawade, Goernment Pleader with Ms. Geetanjali R.
Golatkhar for respondent No.2.-SRA.

Mr. Abdul Jabbar i/by Mr. Santosh S. Pathak for respondent No.4.

CORAM : ANOOP V. MOHTA, J.

DATE : 24 DECEMBER 2013.

P.C.:-

The Appellants/Plaintiffs have challenged order dated 28.11.2013 , whereby the learned Judge, City Civil Court, Dindoshi, Mumbai, refused to grant any ad-interim relief in a Suit filed by them whereby challenge was basically to the SRA Scheme.

2 The provisions of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short, "Slum Act") are applicable and so also the facts which are in dispute, can be adjudicated/decided before High Power Committee. Annexure II is already prepared. The averments even if any with regard to the description of the property including the area that also can be gone into by the Competent Authority. The other provisions are also

available whereby this factual aspect can be gone into and decided. At this ad-interim stage, there is no question of accepting the submission with regard to the area and so also with regard to the challenge to the SRA Scheme itself, basically when Letter of Intent (LOI) issued on 4.6.2007 and 27.01.2010. Subsequent development permission also given by Slum Authority on the suit premises. In the Suit so filed by the three of the Appellants out of 11, against whom similar order was passed, in no way, sufficient reason to entertain and/or grant any protective relief so sought. Other occupants/similarly situated persons have already invoked other remedy.

3 The learned Judge, therefore, considering the rival contentions, by recording the fact including of provisions of Sections 33 and 38 of the Slum Act and the fact that the LOI was executed in 2007, no case is made out for ad-interim relief. The order of Competent Authority dated 19.11.2013, even if any, the remedy is again available for the Appellant to challenge the same. Therefore, taking overall view of the matter, no case is made out to interfere with the impugned order passed by the learned Judge. The Appeals are accordingly dismissed. The interim order granted by this Court also

stand vacated. However, all points are kept open for the parties to agitate.

4 All Appeals are accordingly dismissed. No costs.

5 The learned counsel appearing for the Appellants seeks stay of this order. However, in view of the above reason and after hearing both the parties, I see no case is made out for grant of any protection and/or extension and/or stay. However, as a last chance, to vacate the premises seven days time is granted. The Appellants, if fail to vacate, within this time, the concerned Authority is at liberty to proceed in accordance with law.

(ANOOP V. MOHTA, J.)