

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**CIVIL APPLICATION NO. 180 OF 2013
IN
FIRST APPEAL NO. 43 OF 2013**

Sasangi Engineering (Bombay) Pvt. Ltd.	... Applicants
V/s.	
Sah Roop Narain & Ors.	... Respondents

Mr. Pradeep Sancheti, Senior Counsel a/w Krishna Baruah and Vaibhav Charalwar i/b Legasis Partners for the applicant.

Mr. Y. V. Divekar a/w Ashwini Pawar i/b Divekar & Co. for the respondent nos. 2 and 3.

**CORAM : K. K. TATED, J.
DATED : 13/02/2015.**

PC.:

. Heard learned Senior Counsel for the applicant and learned Counsel for the respondent nos. 2 and 3.

2 This application is preferred by original defendant for stay of operation and implementation of impugned Judgment and decree dated 30.11.2012 passed by Bombay City Civil Court at Bombay in S.C. Suit No. 3789 of 1995.

3 In the present proceeding, the respondents plaintiffs filed S.C. Suit no. 3789 of 1995 in Bombay City Civil Court at Bombay for setting aside the resolution passed by Board of Directors of applicant no.1 dated 30.03.1995 and 25.04.1995 and also for setting aside the appointment of 4th and 5th defendants as Directors of the applicant

no.1.

4 The Trial Court by Judgment and Decree dated 30.11.2012 decreed the suit, holding that the meetings of applicant no.1 dated 30.03.1995 and 25.04.1995 are bad in law, illegal and null and void as no notices were sent to the plaintiffs. The Trial Court also declared that appointment of defendant nos. 4 and 5 as Directors of defendant no.1 (applicant no.1) are illegal, null and void and not binding.

5 The learned Senior Counsel Mr. Pradeep Sancheti for the applicant submits that after hearing both the sides this Court passed order on 18.01.2013 and granted ad-interim relief in terms of prayer clause (a), which is continued till today. He further submits that as First Appeal is already admitted, the ad-interim relief granted by this Court to continue till the hearing and final disposal of the First Appeal.

6 On the other hand, the learned Counsel Mr. Y. V. Divekar for the respondent nos. 2 and 3 vehemently opposed the present Civil Application. He submits that the Trial Court after considering the evidence on record held that the resolutions passed by the Board of Directors of applicant no.1 dated 30.03.1995 and 25.04.1995 are illegal. He further submits that the appointment made by the applicant no.2 of original defendant nos. 4 and 5 as a Directors is illegal. He submits that these facts are considered by the Trial Court and passed impugned Judgment and Decree dated 30.11.2012. He further submits that in view of ad-interim relief granted by this Court on 18.01.2013, the applicants are restraining the respondent original plaintiff from

calling any meetings of the Board of Directors. Therefore, there is no question of granting any relief in the present Civil Application.

7 I heard both the sides at length. It is to be noted that ad-interim relief is granted by this Court on 18.01.2013 and same is continued till today. The First Appeal is already admitted by this court. If operation and implementation of impugned Judgment and Decree is not stayed, the original defendant nos. 4 and 5 cannot act as a Directors of the applicant no.1 Company. Considering this fact and order already passed by this Court on 18.01.2013, I am of the opinion that applicant has made out case for allowing the Civil Application.

8 Hence, the following order:

i) The operation and implementation of the impugned judgment and decree dated 30.11.2012 passed by Bombay City Civil Court, at Bombay in S.C. Suit No. 3789 of 1995, is stayed till the hearing and final disposal of the First Appeal.

9 Civil Application is disposed of accordingly.

(K.K.TATED, J.)