

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

**APPEAL FROM ORDER NO.306 OF 2014
WITH
CIVIL APPLICATION NO.356 OF 2014**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.Kunal Bhanage for the appellant

Mr.S.P.Thorat for respondent no.1

Mr.D.A.Nalawade for the SRA

**CORAM : K.K.TATED, J.
DATED : 16/02/2015**

PC:

- 1 Heard the learned counsel for the parties.
- 2 By this Appeal from Order the appellant original plaintiff challenges the order dated 18.2.2014 passed by Bombay City Civil Court, Mumbai in draft Notice of Motion in Long Cause Suit No.410 of 2014 declined to grant ad interim relief.
- 3 The trial court in impugned order recorded that in SRA Scheme Annexure-II has been prepared way back in 2006 where the father of the appellant original plaintiff has been held eligible. Thereafter the appellant filed the

present suit restraining the respondents from demolishing the suit structure without following due process of law.

4 The learned counsel for the appellant submits that the trial court has failed to consider several documents placed on record such as electricity bill, ration card, voters ID etc. Hence, the respondents may be restrained by an order of injunction from dispossessing the appellant from suit property without following due process of law till the hearing and final disposal of the Notice of Motion.

5 On the other hand, the learned counsel for the respondents vehemently opposed the present Appeal from Order. They submit that in the present proceeding the appellant has not made a party to the developer and or Society. They further submit that the appeal preferred by the appellant before the competent authority of SRA is pending for hearing and final disposal on its own merits. Therefore, there is no question of entertaining the present Appeal from Order.

6 I have heard both the sides at length. Admittedly, in the present proceeding Annexure -II was prepared by the authority in 2006 in which the father of the plaintiff was held eligible. The present suit is filed by the plaintiff in 2012

i.e. after six years. Not only that the appeal filed by the appellant / plaintiff bearing no.737 of 2012 is pending before the Competent Authority of SRA for deciding his eligibility.

7 Considering these facts, I do not find any substance in the present Appeal from Order. In any case, if the appellant succeeds in the Appeal before the Competent Authority of SRA, he will get the benefits. Hence, Appeal from Order is dismissed.

8 In view thereof, Civil Application does not survive. The same is also dismissed as infructuous.

9 It is made clear that Notice of Motion as well as the Appeal preferred by the appellant before the SRA be decided on its own merits without influencing the order passed by this court and be disposed of as early as possible.

(K.K.TATED, J.)