

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

**APPEAL FROM ORDER NO.1223 OF 2014
WITH
CIVIL APPLICATION NO.1469 OF 2014
IN
APPEAL FROM ORDER NO.1223 OF 2014**

Swastic Realtors

.. Appellant

Vs.

Alpana Apartments Co-op.Housing
Society Limited & Ors.

.. Respondents

Mr.R.Narula i/b Ms.Rekha Shinde for the appellant

Mr.Harinder Toor a/w Ms.Manisha Virkhare and Ms.Indrayani
Deshmukh i/b M/s.Vigil Juris for respondent nos.1 and 2

Mr.Rajendra R. Mishra for respondent no.3

**CORAM : K.K.TATED, J.
DATED : 06/02/2015**

PC:

1 Heard the learned counsel for the parties.

2 By consent of appellant and respondent nos. 1 and 2 Appeal from Order is disposed of without giving any reason on following terms:

a Impugned order dated 5.7.2014 passed by Bombay City

Civil Court at Bombay in Notice of Motion No.3004 of 2009 is set aside.

b Trial Court is directed to re-hear the Notice of Motion No.3004 of 2009 on its own merits.

c Till the hearing and final disposal of the Notice of Motion No.3004 of 2009 there shall be ad interim relief in terms of prayer clause (b) of the Notice of Motion which reads thus:

“(b) That pending the hearing and final disposal of the suit, the defendant nos.1 and 2, their partners, servants and agents be restrained by an order and injunction of this Hon'ble Court from dealing with, disposing of, parting with possession or creating any third party rights in respect of the construction put up from 1st floor to the 9th floor structure to be called as 'Swastic Residency' or 'C' Wing.”

d Trial Court is directed to decide Notice of Motion no.3004 of 2009 on its own merits without influencing the order passed by this court or earlier order.

e This court expects from the trial court to dispose of Notice of Motion No.3004 of 2009 as early as possible but in any case on or before 31.3.2015.

f Appeal from Order is disposed of accordingly.

g In view thereof, Civil Application does not survive. The same is also disposed of as infructuous.

Parties to act on authenticated copy of this order.

(K.K.TATED, J.)