

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Appeal from Order No. 335 of 2013
with
Civil Application No.410 of 2013

M/s Suvidha Developers

...Appellant

Versus

State Of Maharashtra And Others

...Respondents

Mr.P. S. Dani, Senior Counsel with Mr.Ajay S.Patil, for the Appellant.

Mr.Makarand Patil, AGP for Respondent Nos.1 and 2.

Mr.Shyam B.Mohite i/b. Mr.J.G.Reddy, for Respondent No.3.

CORAM : G.S. KULKARNI, J.**DATE : 15 NOVEMBER 2016.**

PC. :

1. Heard Mr.Dani, learned Senior Counsel for the Appellant. This appeal assails ad-interim order dated 18 February 2013 passed by the learned Judge, City Civil Court, Borivali Division, Dindoshi in draft Notice of Motion in S.C.Suit No.578 of 2013, whereby the ad-interim relief which was prayed by the Appellant in draft Notice of Motion has been rejected.

2. This Court by ad-interim order 3 May 2013 issued notice in the Appeal and had granted ad-interim protection in terms of prayer

clause (c) of the Civil Application which reads thus:-

“(c) Pending hearing and final disposal of the Appeal, this Hon'ble Court be pleased to direct the Respondents – Orig. Defendants not to take any coercive action against the Applicant in pursuant to the letter No.SRA/ELG/11185/PN, dt. 19.1.2013 and letter No.SRA/ELG/Desk-II/11185/PN, dt.4.2.2013.”

Admittedly, this ad-interim protection continues till date.

3. Mr.Dani, learned Senior Counsel for the Appellant states that the Notice of Motion is pending for final hearing before the Trial Court. In view of the above position that the Appeal assails an ad-interim order and that the protection granted by this Court is continued till this date, in the interest of justice and in the facts and circumstances of the case it is appropriate that the Notice of Motion be heard and decided by the Trial Court. The appeal therefore need not be kept pending. The parties are at liberty to approach the trial Court with a request to take hearing of the Notice of Motion.

4. In the circumstances the ad-interim relief which has been granted shall continue to operate till the Trial Court decides the Notice of Motion and if an order adverse to the Appellant is passed, for a period of

two weeks thereafter.

5. The appeal is disposed of in the above terms. No costs.

6. Civil Application No.410 of 2013 does not survive. It is accordingly disposed of.

(G.S.KULKARNI, J.)