

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

APPEAL FROM ORDER NO.470 OF 2016

ALONGWITH

CIVIL APPLICATION NO.601 OF 2016

IN

APPEAL FROM ORDER NO.470 OF 2016

Mr. Ashok S/o Gopikrishna Sharma .. Appellant/Applicant

Versus

M/s. Shivshakti Builders & Developers .. Respondents

Mr. A. M. Saraogi for the Appellant/Applicant.

CORAM : R.M. SAVANT, J.

DATE : 13th JUNE 2016

PC.

1. The above Appeal from Order takes exception to the order dated 17.03.2016 passed by the Learned Judge of the City Civil Court, Dindoshi, Borivali Division, Mumbai. By the said order, ad-interim relief has been refused to the Applicant. The ad-interim relief sought was that the Defendant No.1 should be directed to pay compensation under the agreement dated 11.11.2014 and further that the Defendant should be restrained from parting with possession and/or demolish or creating third party interest in the suit premises. The ad-interim relief of seeking payment from the Respondent No.1 has been refused on the ground that

the Plaintiff i.e. the Appellant has not been declared eligible under the scheme and it is on the said basis that the Defendant has stopped the payment to the Plaintiff. It has been further recorded in the order that the Plaintiff has challenged the same before the Appellate Authority.

2. The Learned Counsel appearing on behalf of the Appellant/original Plaintiff this Court's my attention to the communication dated 06.05.2016 issued by the Deputy Collector (Encroachment/Removal) and Competent Authority, Malad, by which the Plaintiff i.e. Appellant herein has been directed to deposit Rs.40,000/- as transfer charges. The Learned Counsel further draws this Court's attention to a copy of the Annexure-II issued on 13.05.2016, wherein the Plaintiff has been shown as eligible. It is therefore the contention of the Learned Counsel that the factual basis has now changed since the Order dated 17.03.2016 was passed and the Plaintiff has now been shown to be eligible. If that be so, it is for the Appellant/original Plaintiff to reapply to the Trial Court for appropriate reliefs on the basis of the documents which have been referred to hereinabove. If any such application is filed, needless to state that the same would be considered by the Trial Court on its own merits and in accordance with law. This Court does not express any opinion qua the same. With the aforesaid observations, the Appeal from Order is disposed of.

3. In view of the disposal of the Appeal from Order, the Civil Application does not survive and to accordingly stand disposed of as such.

[R.M. SAVANT, J]