

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Appeal from Order NO. 830 OF 2016
with
Civil Application No.1035 of 2016

Shri. Blaise Godfrey D'souza And Ors

...Appellants

Versus

M/s. Khushi Shelter & Developers Private Limited
And Ors.

...Respondents

Mr.Sanjeev Gorwardkar, Senior Counsel i/b. Mr.A.P.Steenson, for the Appellants.

Mr.Dhakephalkar with Mr.Jagdish Reddy i/b. Rajeev R.Sharma, for Respondent No.2.

Ms.Zahara R.Tejadi, for Respondent No.11.

Ms.Vrushali L.Mainad i/b. Mr.Abhijeet Desai, for Respondent No.3.

Mr.Anupam Surve with Mr.Nikhil Mutha with Ms.Vijayalakshmi Kulkarni, for the Intervenor.

CORAM : G.S. KULKARNI, J.

DATE : 16th November, 2016.

ORDER:

1. After the matter was heard for some time, Mr.Gorwadkar, learned Senior Counsel for the Appellants seeks leave to withdraw the Appeal on the ground that this appeal is against an ad-interim order passed in the Notice of Motion, which is pending for disposal before the learned Trial Judge. In the facts of the case, the request is fair and reasonable. The Appellants are at liberty to approach the learned Trial

Judge and with a request to take up the Notice of Motion at an early date. Needless to observe that the learned Trial Judge shall consider the Notice of Motion on its own merit without being influenced by the impugned ad-interim order. All contentions of the parties on merit of the matter are expressly kept open.

2. Learned Advocate Mr.Surve has sought intervention in this appeal on behalf of the legal heirs of Hajee Alimohammad Hajee Cassum Agboatwala, asserting independent rights in the suit premises. It is open to the clients of Mr.Surve, Advocate to agitate and assert their legal rights in the appropriate proceedings as may be advised.

3. Considering the facts of the case, the learned Trial Judge may consider disposing of the Notice of Motion as expeditiously as possible.

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

5. Civil Application No.1035 of 2016 does not survive. It is accordingly disposed of.

(G.S.KULKARNI, J.)