

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

**CIVIL APPLICATION NO. 4099 OF 2016
IN
FIRST APPEAL NO. 849 OF 2011**

Shri Tribhuvandas M. Rughani & Ors. ... **Applicants/
Appellants**

Versus

Shree Raghuvanshi Co-operative
Housing Society Ltd. & Ors. ... **Respondents**

Mr.P.K.Dhakephalkar, Sr.Advocate with Dr.Birendra Saraf,
Ms.Pooja Kshirsagar, Mr.Anand Chovatia, Mr.Yogesh Patil,
Ms.Sheetal Mehta i/b. Mr.Yogesh Adhia for
Applicants/Appellants.
Mr.Shreepad Murthy with Mr.Abhishek Patil i/b. Mr.Anand
Nikhil for Respondent No.1.
Ms.M.R.Bhoir for Respondent Nos.11 and 12.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 27TH OCTOBER, 2016.

P.C. :

1] This application is preferred by the original defendant nos.8 to 12 seeking the relief of interim injunction restraining respondent no.1-the original plaintiff from in any manner, entering into an agreement or other arrangement for redevelopment or otherwise of the suit property, creating any third party interest thereon

till decision of the appeal.

2] It is submitted that the appeal is preferred against the judgment and decree in L.S.Suit No. 7346 of 2000 of the City Civil and the Sessions Court, Mumbai dated 22nd February, 2011, thereby giving a mandatory injunction directing the present applicants including original defendant no.13, 14 and 15 to execute a conveyance of the entire suit property.

3] It is submitted that the said part of the decree of directing execution of conveyance deed is already stayed by this Court. However, during the pendency of this appeal, respondent no.1 has started the process of floating tenders for redevelopment of the said property and in such situation having regard to the rights of the appellants herein towards the development of the said property including their right to TDR, it is necessary to restrain respondent no.1 from carrying out any arrangement for redevelopment or otherwise of the suit property.

4] In the affidavit-in-reply filed by respondent no.1 it is contended that in view of respondent no.1 being the proprietor of the said society which is having all the rights now to develop the said property, Society had sought offers from the prospective developers.

All the facts regarding the Societies title, the litigation and the pending proceedings and the right to get conveyance would be disclosed. Since the society do not have a conveyance due to the interim relief granted by this Court, a specific publication is made to the effect that the same is under process and all details of such process with the pending litigation is also made available which would disclose the position. It is further stated that there is no hope of getting the appeal disposed of early, as already the building is more than 50 years of age, therefore, to avoid hardship, inconvenience, loss of life, the society had only started the process and once the process is complete, respondent no.1 would surely move the Court for an appropriate relief depending upon the required reliefs.

5] In such circumstances, in view of this specific statement is made by respondent no.1 that they would seek an appropriate relief as and when the process is complete, at this stage no relief of interim injunction as such is necessary. Hence, the application is disposed of with liberty to move the application as and when it is necessary, with the same liberty to respondent no.1 also as he has said that he has started process of selecting the developer.

6] As it is submitted that paper-book is already ready and

building is in dilapidated condition, the appeal is of the year 2011 and the hearing of the appeal is already expedited, it is kept for “final hearing”.

7] Stand over to 29th November, 2016 at 3.00 pm.

(DR.SHALINI PHANSALKAR-JOSHI, J.)