

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

**APPEAL FROM ORDER NO.26 OF 2017
WITH
CIVIL APPLICATION NO.31 OF 2017
IN
APPEAL FROM ORDER NO.26 OF 2017**

M/s.J.P.Infra (Mum) Private Limited ..Appellant/Applicant

V/s.

Mr.Shankar Vasudeo Sawant ..Respondent

Mr.Simi Purohit i/by RMG Law Associates for the
Appellant/Applicant.

Mr.Piyush Raheja i/by Mr.M.B. Naynak for Respondent No.1.

CORAM : M. S. SONAK, J.

DATE : 27 JANUARY 2017.

P.C.

1. In this appeal, the challenge is to the orders dated 03-01-2017 and 10-01-2017, by which , the learned Trial Court has ordered the parties to maintain *status-quo* in respect of the suit structure.

2. Mr.Purohit submits that the suit basically seeks permanent injunction against the appellant (Original defendant) from proceeding against suit structure otherwise then by due process of law. He submits that the respondents have already

resorted to due process of law and in pursuance of the same the appropriate authorities have issued orders dated 20-02-2015 and 03-11-2016 relatable to the exercise of power under Section 19A of the MHADA Act. Mr.Purohit submits that as against the said orders, respondent (Original Plaintiff) had in fact instituted Writ Petition Stamp No.3056 of 2016 which has since been dismissed by order dated 21 November 2016. Soon thereafter i.e. in January 2017, the respondent has instituted the present suit, which is nothing but an abuse of the process of law. In these circumstances, the learned Trial Judge was not at all justified in ordering the *status-quo*.

3. Mr.Purohit submits that matter was heard on 03-01-2017 and in fact kept for orders on 10-01-2017 and *status-quo* was directed in the meanwhile. On 10-01-2017, the respondent produced further documents only with a view to delay the proceedings and for extending the *status-quo* order. The Trial Judge on 10-01-2017 has posted the matter on 30-01-2017 for rehearing. Mr.Purohit submits that the respondent is only bent upon the protracting the proceedings and extending the *status-quo* order although, this Court by its order dated 21-11-2017 has dismissed the petition filed by them seeking *status-quo* order. Mr.Purohit submits that entire development process is stalled and therefore, this Court

must interfere with the impugned orders.

4. Mr.Raheja learned counsel for respondent-original plaintiff submits that respondent is not interested in delaying the matter. On 10-01-2017 only one additional document i.e. rent receipt of January to March 2017 was filed as it was not available when the suit was instituted. He submits that this document was issued on 10 January 2017 itself. He submits that on 30-01-2017, the respondent or his advocate has no intention of re-arguing the matters but in case the learned trial Judge has any clarifications with regard to the document, they are prepared to answer the same.

5. Mr.Purohit submits that document is irrelevant and extraneous to the matter. He submits that there is no reason to delay the matter any further. The matter was earlier posted for orders on 10-01-2017 and it is at the behest of the respondents that the matter is being delayed.

6. At this stage it is not necessary to entertain the present appeal. However, no parties can delay the proceedings, particularly in a situation where the development is stated to be stalled. If the

respondent, in law is entitled to same relief that is a different matter. However, none of the parties can delay the proceedings before the Court. Now that respondent states that they have no desire to re-argue the matter but only answer in clarifications, there is no necessity of interfering with the impugned orders at this stage. This appeal can be disposed of with the direction that the learned Trial Judge disposes of the Notice of Motion one way or the other positively before 07 February 2017. Both the learned counsel for the parties assure that they will not seek any adjournment on 30-01-2017 and that they will not file further applications which would result in dealing the matter in further. The learned counsel for the parties states that they will place on record their written submission on 30 January 2017 and clarifying matters, if requested by the learned Trial Judge.

7. The appeal is disposed of with the aforesaid directions.

8. All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)