

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

**APPEAL FROM ORDER NO.191 OF 2017
WITH
APPWAL FROM ORDER NO.192 OF 2017**

Nancy Builders and Developers Pvt. Ltd.	...Appellant
Versus	
Goel Ganga Developers [I] Pvt. Ltd. & Anr.	...Respondents
...	
Mr. Sanjay Jain with Mr. Sheelang Shah and Mr. Koshiki i/b. M/s. LJ Law for the Appellant.	
Mr. Suresh S. Shah for the Respondents.	

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 6th JUNE, 2017.

P.C.:-

Heard the learned counsel for the Appellant and the learned counsel for the Respondents. By Appeal from Order No.191 of 2017 the Appellant has challenged orders passed at Exhibits 52 and 81 whereas Appeal from Order No.192 of 2017 challenges orders passed at Exhibit 145. In the course of arguments it was seen that the learned Judge has disposed of Applications at Exhibits 52, 81 and 145 without conducting any enquiry and without giving opportunity to the Appellant to prove his contentions.

2. Mr. Shah the learned counsel for the Respondent fairly submits that he has no objection to set aside the orders passed at Exhibits 52 and 81. Though the learned counsel for the Respondent has not given no objection

for setting aside order passed at Exhibit 145, it is seen that said application is also decided without holding any enquiry and without giving any opportunity to the Appellant to prove his contention.

3. In view of the above, the impugned orders passed at Exhibits 52, 81 and 145 are hereby set aside with direction to the learned Judge to decide the matters afresh on merit after conducting an enquiry and giving opportunity to the parties to prove all the grounds raised in the Applications. It is made specifically clear that this Court has not gone into the merits or de-merits of the grounds raised by the respective parties and all points and contentions are kept open. Said applications to be disposed of as expeditiously as possible and in any event within a period of eight weeks from the date of receipt of this order. Both the parties to appear before the Trial Court on **8.6.2017 at 11.00 a.m.** and to cooperate in expeditious disposal of the Applications.

4. Both the Appeals from order stand disposed of.

(ANUJA PRABHUDESSAI, J.)