

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

**APPEAL FROM ORDER NO.16 OF 2013
WITH
CIVIL APPLICATION NO.21 OF 2013
IN
APPEAL FROM ORDER NO.16 OF 2013**

Vidya Nagendra Singh ..Appellant/Applicant
V/s.

The State of Maharashtra & Ors. ..Respondents

Mr.Kunal Tiwari i/b K.R. Tiwari & Co. for the Appellant/Applicant.

Mr.A.A. Palkar, AGP for Respondent-State.

CORAM : M. S. SONAK, J.

DATE : 05 APRIL 2017

P.C.

1. This appeal was admitted on 13 June 2013.

2. The appeal is against order dated 07 May 2011, by which, the learned Trial Judge, has declined to grant interim mandatory injunction to the appellant-plaintiff during the pendency of the suit.

3. The suit itself was instituted in the year 2011 and by now, it is reasonable to proceed on the basis that the suit itself is an

advanced stage. The interim mandatory injunction was declared by the learned Trial Judge by observing that the demolition has already taken place and interim mandatory injunction to permit reconstruction can be granted only an exceptional circumstance.

4. Now that the suit must be an advanced stage, it will not be appropriate to consider grant of mandatory injunction, which in any case, is to operate only during the pendency of the suit. Rather, it will be appropriate to direct the learned Trial Judge to expedite the hearing in the suit and to dispose of the suit on its own merits and in accordance with law. It is so directed. Further, the learned Trial Judge should not be influenced by any observations made in the impugned order and for that matter the present order while disposing of the suit on merits and in accordance with law.

5. The hearing in the suit is expedited.

6. With the aforesaid observations this appeal is disposed of. The Civil Application, if any, do not survive and the same are disposed of.

(M. S. SONAK, J.)