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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1724 OF 2017
IN
FIRST APPEAL NO. 498 OF 2017

Neapean Sea Rambha Coop Hsg Soc Ltd ...Applicant
Versus
Tahnee Heights Coop Hsg Soc Ltd & Ors ...Respondents

Mr Z Andhyarujina, *with Gulnar Mistry, Aurup Dasgupta & S
Shah, i/b Jhangiani Narula & Associates, for the Applicant.*
Mr DD Madon, Senior Advocate, *with Chirag Mody, Anusha Jacob,
& Manasi Vyas, i/b DSK Legal, for Respondent No. 1.*

CORAM: G.S. PATEL, J
DATED: 27th June 2017

PC:-

1. This is the Appellant's Civil Application for stay of the impugned order and judgment dated 31st March 2017, the subject matter of the First Appeal. By the impugned order, the Trial Court, while dealing with the issue of installation of a gate on the suit access road, granted a declaration that the installation of that gate was illegal and directed the present Appellant (the original 1st Defendant) by a mandatory injunction to remove that gate within three months. There was also a perpetual injunction in broad terms against the 1st Defendant from causing "any sort of disturbance".

2. As regards the gate, since this is clearly the matter of previous discussions and disputes between the parties, and of some long standing — the parties are said to have had five or six meetings between 2010 and 2011 — I see no reason to deny the interim relief.

3. Mr Madon for the 1st Respondent submits that the ad-interim arrangement during the suit was that the gate was to be kept open at all times. The Appellant had given an undertaking in separate contempt proceedings that they would keep the gate open between 12.30 a.m. and 5.00 a.m. While this undertaking, according to Mr Madon, was accepted, he says that as a matter of fact that gate has been kept open around the clock. Mr Andhyarujina for the Appellants says this is not so. The gate is closed between 12:30 am and 5:00 am, for security reasons, but the 1st Respondent's members and their vehicles are allowed to enter and exit as required even at that time. The Appellants have posted security guards at the gate.

4. This existing arrangement will continue.

5. Neither the continuance of this arrangement, nor the fact that this order is made in Appeal, will affect the rights and contentions of the parties in the pending contempt proceedings, which will be decided on their merits.

6. The Civil Application is disposed of in these terms.

(G. S. PATEL, J)