

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 830 OF 2010
AND
CIVIL APPLICATION NO. 1039 OF 2010

M/s. Shree Sai Developers

.. Appellant

vs.

Mr. Mohammed Shariff
Abdul Hameed and anr.

.. Respondents

None for both sides.

CORAM : M. S. SONAK, J.

DATE : 20 JANUARY 2017.

P.C. :-

1] The challenge in this appeal is to the order dated 15 April 2010, by which, the appellant's notice of motion seeking interim relief was dismissed. On 16 March 2011, this court, admitted this appeal but clarified that pendency of this appeal will not operate as stay to the proceedings of the suit and the trial court is free to decide the suit.

2] On the same date, i.e., 16 March 2011, this court dismissed the civil application for interim reliefs pending the appeal by observing the following:

"1 Heard learned counsel for the parties. In a suit filed in the year 2008, there was no ad-interim relief granted in the Notice of Motion in favour of the applicant. By the impugned order, Notice of Motion has been dismissed and prayer for interim relief has been rejected. Therefore, relief prayed for in this application cannot be granted. Application is rejected."

3] This means that from the year 2008, the appellant has no ad-interim or interim relief operating in its favour. The suit itself was instituted in the year 2008 though registered in the year 2009. It is possible that by now the suit itself is disposed of. In any case, it is too late to now consider grant of any interim reliefs pending disposal of the suit, particularly, considering the nature of interim reliefs, which are applied for in the appeal.

4] Possibly for the aforesaid reasons, neither the appellant nor their advocate are present today.

4] Upon cumulative consideration of the aforesaid, the appeal is dismissed. There shall, however, be no order as to costs. The civil application does not survive and the same is also disposed of accordingly.

(M. S. SONAK, J.)

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