

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

APPEAL FROM ORDER (ST) NO.19397 OF 2015

Shri.Uday Bhan Singh ..Applicant/Appellant
V/s.

A.R. Constructions Builder &
Developer ..Respondent

Mr.Ram A. Yadav for the Applicant/Appellant.

Mr.Vinod Desai for the Respondent.

CORAM : M. S. SONAK, J.

DATE : 15 MARCH 2017.

P.C.

1. Heard Mr.Yadav, learned counsel for the appellant and Mr.Desai, learned counsel for the respondent.

2. The challenge in this appeal is to the order dated 23 March 2015 by which the learned Trial Judge has dismissed the appellant-plaintiff's Notice of Motion No.612 of 2015 seeking *inter-alia* interim mandatory injunction to reconstruct the demolished premises.

3. The learned Trial Judge has held that on the basis of the

material on record, it cannot be said that the appellant had made out a case that warrants the grant of mandatory injunction at the interim stage. There is really no error of principal or any unreasonableness in the view taken by the learned Trial Judge.

4. The grant of mandatory injunction at the interim stage in the facts and circumstances of the present case would virtually amount to grant of final reliefs at the interim stage. The suit was instituted in the year 2013 and is now posted for framing of issues. In these circumstances it is appropriate if the learned Trial Judge is directed to dispose of the suit itself on merits and in accordance with law as expeditiously as possible and in any case within a period of one year from today. However, at this stage it will not be appropriate to consider the appellant's case for grant of interim mandatory injunction.

5. Accordingly, this appeal is not maintainable. However, the learned Trial Judge is directed to dispose of the main suit on its own merits and in accordance with law as expeditiously as possible and in any case within a one year from today. In disposing of the suit, the learned Trial Judge need not be influenced by any observations made in the impugned order dated 23 March 2015 or

for that matter the present order. All contentions of all parties are left open. The appeal is disposed of in the aforesaid terms.

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

7. In view of the disposal of the appeal, the Civil Application does not survive and the same is disposed of accordingly.

(M. S. SONAK, J.)