

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8396 OF 2017

Shadaab S. Patel .. Petitioner
vs.
Oscar Builders Pvt. Ltd. and anr. .. Respondents

Asit Khan for the Petitioner.
Mr. Akhilesh Dube a/w. Paritosh Shukla i/b Law Counsellors for
Respondent No.1.

CORAM : M. S. SONAK, J.
DATE : 18 SEPTEMBER 2017.

P.C. :-

- 1] Not on board. In view of urgency, taken on production board.
- 2] Learned counsel for the petitioner states that the petitioner has no objection to the impugned order, by which the preliminary issue has been framed. However, the petitioner is aggrieved by denial of interim relief, which, the petitioner is entitled to press in terms of Section 9A(2) of the CPC.
- 3] In this case, the impugned order does not reject any interim relief. All that, learned Trial Judge has observed that there was no application for interim relief and in the absence of any such application, there is no question of consideration of any prayer for

interim relief. Learned counsel for the petitioner points out that in the reply filed to the motion for framing of preliminary issue, the petitioner had applied for interim relief.

4] From the perusal of the reply, there does not appear to be any such prayer. In any case, it is only appropriate that the petitioner, if, is seriously interested in any interim relief should take out an appropriate application, which can always be considered in accordance with law by learned Trial Court. Accordingly, there is absolutely no case is made out to interfere with the impugned order. In any case, the petitioner is granted liberty to take out a proper application supported by the affidavit seeking interim reliefs. If such application is taken out, the Trial Court to consider the same in accordance with law and on its own merits by affording an opportunity of hearing to the opposite party.

5] With aforesaid observations and liberty, the petition is disposed of.

(M. S. SONAK, J.)