

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.1028 OF 2014
WITH
CIVIL APPLICATION NO.1240 OF 2014**

Sunmitra Mandal Telange Khairandewadi, ...Appellants
Mumbai & Ors

Versus

Shivram Mahadev Vangule & Ors ...Respondents

Mr Shashank Chaudhari, i/b Sachin V Masurkar, for the Appellants.

**CORAM: G.S. PATEL, J
DATED: 6th June 2017**

PC:-

1. The Appeal is directed against the order dated 12th July 2014, declining the Plaintiffs ad-interim relief in a Suit for declaration that the 1st Plaintiff is the owner of the premises bearing No.1/41, Shivneri Building, Dadasaheb Phalke Road, Dadar (East), Mumbai and seeking an order of restraint against the Defendants from interfering with the Plaintiffs' possession and from creating third party rights. At the ad-interim stage there was a dispute before the Trial Court as to whether the Plaintiffs or the 1st Defendant was in possession. The Plaintiffs relied on a notice dated 2nd May 2014 from MHADA and the learned Judge *prima facie* found that the

notice itself was unworthy of credence; the learned Advocate for the MHADA categorically asserted that the notice was a fake.

2. In these circumstances, it is difficult to fault the order of the learned Single Judge in declining ad-interim relief. The observations in paragraph 6 are clearly only *prima facie*. The Motion is yet pending.

3. The Trial Court is requested to take up the Motion on its earliest convenience for hearing and final disposal. It will be listed on board on 3rd July 2017 for direction for filing of replies and rejoinders and for fixing a date for final hearing.

4. The Motion will be decided on its own merits and uninfluenced by the ad-interim order dated 12th July 2017 and also by this order. All rights and contentions are kept open.

5. The Appeal is disposed of in these terms. In view of disposal of the Appeal, the Civil Application does not survive and is disposed of accordingly.

(G. S. PATEL, J.)