

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

**APPEAL FROM ORDER NO.1060 OF 2013
WITH
CIVIL APPLICATION NO.1239 OF 2013
IN
APPEAL FROM ORDER NO.1060 OF 2013**

Pantnagar Prathamesh Co-op.
Housing Society
V/s.
..Appellant/Applicant

The Municipal Corporation of
Greater Mumbai & Anr.
..Respondents

Mr.Santosh T. Kanchor for the Appellant/Applicant.

Mr.V.P. Sawant for Respondent No.-2-MHADA.

Mrs.Madhuri M. More for Respondent No.1-MCGM.

Mr.Venktesh Prabhu Kolwalkar-Secretary of Prathamesh Co.
Operative Society.

CORAM : M. S. SONAK, J.

DATE : 05 APRIL 2017

P.C.

1. The challenge in this appeal is to the order dated 12 August 2013 made by the learned Trial Judge by which, certain interim reliefs were denied to the appellant-plaintiffs.

2. In this appeal, the ad-interim order, which was in operation when the impugned order dated 12 August 2013 was

made, was continued by this Court and the matter was stood over for final disposal. Such ad-interim order continues till date.

3. Mr.Sawant, learned counsel for respondent No.2-MHADA submits that even if the ad-interim relief granted by this Court, is required to continue during the pendency of the suit, such continuance, cannot be unconditional. He points out that the MHADA without prejudice to his rights and contentions has raised a demand upon the appellant's have payment of premium for additional built up area on the basis of the Ready Reckoner of 2017-2018 in an amount of Rs.1,54,58,907/- vide demand letter dated 09 March 2017. He submits that the appellant, may be directed to pay this amount, if, ad-interim order, is to be directed to be continued.

4. Mr.Santosh Kanchor, learned counsel for the appellant, taking instructions from the Secretary of the appellant makes a statement that the appellant, without prejudice to his rights and contentions, will pay the premium amount so demanded in terms of the letter dated 09 March 2017. He however, submits that some reasonable time may be granted to the appellant, since, the appellant is a society and they will arrange for the amount from the

members of the society.

5. In the aforesaid circumstances, the interim order which was in operation until the impugned order dated 12 August 2013 was made, which order was further continued by this Court, in its order dated 23 September 2013, is directed to operate during the pendency of the suit instituted by the appellant. Such continuance and operation shall however be subject to the appellant paying to respondent No.2-MHADA the demanded amount of Rs.1,54,58,907/- within a period of three months from today. Such payment, shall obviously be without prejudice to the rights and contentions of all the parties. In case, such amount is not paid on or before 30 July 2017, the interim relief now granted shall stand vacated without any further reference to this Court. The learned counsel for the appellant on the basis of the instructions from the appellant states that no further extension will be applied for to pay the said amount. The fate of the said amount shall abide by final orders in the suit.

6. The learned Trial Judge is also directed to dispose of the suit itself expeditiously. In so disposing of the suit the learned Trial Judge need not be influenced by any of the observations in the

impugned order and for that matter in this order.

7. The appeal is accordingly, disposed of. The Civil Application, if any, also stand disposed of.

(M. S. SONAK, J.)