

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER st. NO.26991 OF 2017
WITH
CAAST./26992/2017**

M/s.Metro Shivshakti Developers ... Appellant

Vs.

Manohar Jayram Karale & Ors. ... Respondents

Mr.S.S. Kothari with Ms.Nikita Jacob for the Appellant
Mr.Prashant Rajput for Respondent Nos.1 to 4

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: DECEMBER 11, 2017

P.C.:

1. This Appeal from Order is directed against the order dated 16.8.2017 passed by the learned Joint Civil Judge, Senior Division, Kalyan, below exhibit 17 in Special Civil Suit No.180 of 2017. By the application below exhibit 17, the plaintiffs, who are respondent Nos.1 to 4, have prayed for maintaining status quo against defendant No.25, who is the appellant and the main contesting party. The plaintiffs are prosecuting that the suit land is an ancestral property and the other defendants, who are respondent Nos.19 to 28, are related to the original plaintiffs i.e., respondent Nos.1 to 4. So, the suit is filed and the application below exhibit 5 i.e., the application for

interim injunction under Order 39 Rule 1 of Civil Procedure Code is still pending. The present appellant has filed affidavit in reply cum written statement in the said suit. Further exhibit 50 is ready for hearing.

2. The contention of the learned Counsel for the respondents is that the prayer made in exhibit 17 of status quo only till filing of the written statement. However, the written statement was already filed by the appellant / defendants, when this order was passed and, therefore, the application was infructuous. He further submitted that the plaintiffs' claimed 1/5th share in the suit property. He submits that no construction is going on the land and, therefore, the order of status quo is correct.

3. In view of the submissions of the learned Counsel for the parties and the facts mentioned therein, I am of the view that the order passed by the learned trial Judge is correct. The trial Judge while passing the order of status quo has taken into account that the written statement was filed at the relevant time.

4. In view of this, no interference is required. Appeal from Order is therefore dismissed. However, the trial Court to proceed with the

hearing of the exhibit 5 application and decide the same on or before 28.2.2018.

5. Civil Application stands disposed of accordingly.

(MRIDULA BHATKAR, J.)