

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****APPEAL NO. 230 OF 2017****IN****NOTICE OF MOTION NO. 3082 OF 2009****IN****SUIT NO. 2000 OF 2006**

Rizvi Land Developments Pvt.Ltd. ... Appellant

vs.

M/s. Housing Development & Improvement

India Pvt. Ltd.

...Respondents

Mr. Mahesh Mishra a/w Mr. Ravi Thankin for the appellant.

Mr. Rishi Jha i/by M/s. Markand Ganddhi & Co. for R. nos. 1 and 4.

Mr. Surel Shah, Mr. Surya Abhishek, Ms. Apurva Gupte i/by M/s. Hariani & Co. for respondent no. 5.

**CORAM : SHANTANU KEMKAR &
M.S. SONAK, JJ.
JULY 28, 2017****P.C.:**

Parties through their counsel.

2. Challenging the order passed by the learned Single Judge of this Court on 4th August, 2016 in Notice of Motion No.3082 of 2009 filed in Suit No.2000 of 2006, the appellant/plaintiff has filed this appeal. By the impugned order the learned Single Judge has declined to grant interim relief to the appellant by observing that the ad interim relief was declined about seven years back and thereafter much progress had taken place.

3. We find no infirmity in the order of the learned Single Judge as we have been informed that during this period the IOA and CC has already been issued and the eligible slum dwellers have been put in possession in the rehabilitation building. We have also been appraised by the learned counsel for respondent no. 5 that a Writ Petition No. 2373 of 2011 was filed by the appellant itself and in the said petition, interim relief was declined by observing thus :

“4. The petitioner contends that in view of its alleged rights as a lessee, it would have been entitled normally to priority to obtain permission for redevelopment under DCR 33(1)) and that it was deprived of this right due to the illegal act of respondent nos. 4 and 7 developers. The petitioner contends that it would be entitled to damages for this reason.

5. Whether the petitioner is entitled to any reliefs or not would be decided in appropriate proceedings. It is however, not possible now to set the clock back. Even after the work commenced, the plans were amended on 08.07.2009. Pursuant thereto, a further IOA and CC were issued on 15.07.2009. The rehabilitation buildings have been completed and eligible slum dwellers have been put in possession. The petitioner contends that they were put in possession illegally, as the occupation certificate is still not given. The free sale component is also substantially completed in all respects.”

4. In view of the aforesaid order passed in Writ Petition also we are of the view that this appeal has no merit. In the circumstances, we dismiss this appeal.

(M.S. SONAK, J.)

(SHANTANU S. KEMKAR, J.)