

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER (St.) No. 15 OF 2018
WITH
CIVIL APPLICATION (St.) No. 16 OF 2018**

Gopal Ramchandra Basankar	... Appellant
Vs.	
The Mumbai Metropolitan Regional Development Authority	... Respondent

**WITH
CIVIL APPLICATION (St.) No. 1493 OF 2018
IN
APPEAL FROM ORDER (St.) No. 15 OF 2018**

Parivij Rumi Kaikbad & Ors.	... Applicants
Vs.	
Gopal Ramchandra Basankar	... Respondent

Mr. R.R. Kanojiya, Advocate for the appellant.
Mr. F.M. Reis, Senior Advocate a/w. Ms. Madhuri More, Advocate for the respondent/Corporation.
Mr. Sameer Tendulkar i/b. Parth P. Shah, Advocate for the intervener.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **29th January, 2018.**

P.C.:

This Appeal from Order is directed against the order dated 30th December, 2017 passed by the learned Holiday Judge of the City Civil Court in Draft Notice of Motion in L.C. Suit (St.) No. 14132 of 2017 thereby refusing to grant ad-interim relief. The appellant is the tenant in the building owned by the Municipal Corporation. Due to the bad condition of the building, notice was given for repairs of the

said building. When this matter came up before the Vacation Judge of this Court on 2nd January, 2018, this Court has observed that the suit property was not classified in Category-1 in terms of report of T.A.C. and the building was not required to be demolished. It was also observed that the appellant has not been apprised by the Corporation about alternate accommodation, the period within which he would be provided accommodation and the other related details about it. The Corporation was given time to submit reply and interim stay was granted by this Court on the demolition of the building.

2. At the time of hearing of this Appeal from Order and on perusal of the documents and reply, it is found that out of 22 tenants of the Corporation, all the tenants including appellant have shifted. It appears that the tenants have formed a Cooperative Society and thereafter they have approached the Corporation for the development of the building. Except appellant, all the tenants are the members of the Society. The Society has entered into an Agreement for Development on 2nd June, 2016 with the developer and further developer has entered into individual agreement for providing them alternate accommodation or the rent. It appears that as on today, the first floor of the suit building, which was having ground plus one

structure, is demolished. In view of these developments, balance of convenience lies in favour of the Corporation, as the interest of other 21 members is at stake.

3. The learned counsel for the developer submitted that permanent premises in the proposed structure building will be earmarked for all the tenants/members of the Society including the present appellant after obtaining IOD.

4. Under such circumstances, I am of the view that *prima facie*, the interest of all the tenants is protected and the balance of convenience lies in favour of the respondents. The trial Court has considered this aspect in the impugned order. I do not find any fault in the order passed by the learned trial Judge. Hence, Appeal from Order is dismissed.

5. The learned counsel for the appellant orally prays to stay the operation of this order by two weeks, as the appellant wants to challenge this order before the Hon'ble Supreme Court.

6. In view of the present status of the building and as the tenants

have vacated the suit building, I reject the prayer of the learned counsel for the appellant for stay of this order.

7. In view of dismissal of Appeal from Order, Civil Applications do not survive and are also accordingly disposed of.

(MRIDULA BHATKAR, J.)