

Amk

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

**APPEAL FROM ORDER (STAMP) NO. 21294 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO. 21297 OF 2018
IN
APPEAL FROM ORDER (STAMP) NO. 21294 OF 2018**

AMI Corporation, through its sole Prop.

Mr. Nipun Thakkar

.. Appellant-Applicant

Vs.

Vijay Kamal Properties Pvt. Ltd. & Ors.

.. Respondents

Mr. Surel Shah I/b Mr. Drupad S. Patil for the Appellant-Applicant.

Mr. Vishal Kanade a/w. Mr. Ryan Menezes I/b M/s. Jhangiani, Narula and Associates for Respondent No.1.

Mr. Y. S. Jahagirdar, Sr. Advocate I/b Mr. Pramod Patil for Respondent No.2.

Mr. Anoop Patil for Respondent No.3-SRA.

Mr. Anant Savant, the Chairman of Respondent No.2-Society and Mr. Sunil J. Dable, the Treasurer of Respondent No.2-Society present.

CORAM : K. K. SONAWANE, J.

DATE : 2nd AUGUST, 2018.

P. C. :

1. Heard learned Counsel for appellant and learned Counsel appearing for respective respondents.
2. During the course of hearing of the present Appeal from Order, learned Counsel appearing for respondent No.2-Cooperative Society on instructions from the Chairman of the Co-operative Society fairly conceded that no any new developer will be appointed by the society, in case this Court issued directions to the learned Trial Court for expeditious hearing of

Notice of Motion No. 202452 of 2018 in S. C. Suit No. 1882 of 2018. In such circumstances, he has no any objection to dispose of the present appeal in the light of his submission. The learned Counsel for the appellant also shown inclination for expeditious hearing of the Notice of Motion subject to condition that the respondents shall not appoint any new developer and maintain the status-quo pending the Notice of Motion.

3. In view of aforesaid submissions, there is no impediment to act upon the contentions propounded on behalf of both sides for expeditious hearing of the Notice of Motion No.202452 of 2018 in S. C. Suit No.1882 of 2018. Admittedly, the learned Trial Court dealt with the Notice of Motion and passed impugned ad-interim order dated 16.07.2018. No doubt, being an ad-interim order, it is imperative for the learned Trial Judge to determine the issue of interim relief pending the proceeding on the anvil of prima facie case, balance of convenience and loss, if any, would be caused to the either side. It is the rule of law that the object and purpose of interim relief is to maintain the status-quo in regard to suit property pending the suit to enable the party succeeded in the suit to execute the decree without any hindrances.

4. In such circumstances, instead of dealing with the present Appeal from Order on merits, to determine the issue ad-interim, I find it justifiable to relegate back the parties to the proceeding to concerned Trial Court. The learned Trial Judge is hereby directed for expeditious hearing of Notice of Motion No. 202452 of 2018 at the earliest, more particularly, its

adjudication on merit within six weeks from the date of receipt of this order. Definitely, it would subserve the purpose in the interest of justice. Hence, the present Appeal from Order stands disposed of with above observations.

5. Meanwhile, till decision of Notice of Motion No. 202452 of 2018, the respondent-Cooperative Society shall not appoint any developer to carry out work of development of the suit property and shall maintain status-quo. The parties to appeal shall take note about the same.

6. It is further made clear that both the parties to the proceeding shall co-operate to learned Trial Court for expeditious hearing to adjudicate the Notice of Motion on merits within stipulated period. In case, the learned Trial Court observed any dilatory tactics on the part of any of the parties, the learned Trial Court is at liberty to pass appropriate order for adjudication of Notice of Motion on merit within stipulated period.

7. Accordingly, Appeal from Order stands disposed of in above terms.

8. In view of disposal of Appeal from Order, Civil Application does not survive and stands disposed of.

Arjun
Machhindra
Kadam

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by Arjun
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[K. K. SONAWANE, J.]