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

**APPEAL FROM ORDER (ST) NO.29195 OF 2018
WITH
CIVIL APPLICATION (ST) NO.29196 OF 2018**

Shri. Deviprasad Surju Mishra	...	Appellant
V/s.		
Reliance Infrastructure Limited		
and anr	...	Respondents

Ms. Rajkumari C. Nichani, for the appellant.
Mr. Satish Kamat, for respondent No.1.
Ms. Duhita Desai for respondent No.2.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 29th OCTOBER, 2018.

P.C. :

- 1] Heard learned counsel for the appellant and respondent.
- 2] This Appeal is directed against the order dated 11.9.2018, passed by the City Civil Court, Mumbai, thereby dismissing the Notice of Motion No.1986 of 2015, filed in Suit No.1619 of 2015.
- 3] The said Notice of Motion was taken out by the appellant herein for getting the electricity connection. According to him, earlier there was common connection to all the flat purchasers, which was taken in the name of builder. Now the society is formed and other members have got their separate connections. Accordingly, when the appellant filed such application, his application was not granted, in

view of the objection raised by respondent No.2, on the ground that respondent No.2 has also purchased the same flat by subsequent agreement.

4] The trial Court has rejected the Notice of Motion only on the ground that the relief which the appellant is claiming in the Notice of Motion is the same as claimed in the suit and therefore, grant of the final relief at the interim stage would not be proper and hence the trial Court has dismissed the Notice of Motion and has expedited the hearing of the suit.

5] Needless to state that, this order of the trial Court cannot be called as just and legal, especially when it is bound to take substantial some time for disposal of the suit. During the said period, it would not be proper to deprive the appellant from the electricity supply which he was enjoying till now. The dispute between the appellant and respondent No.2, relating to the title over the suit flat can be decided at the time of final hearing of the suit, but till then the appellant cannot be asked to lead the life without electricity supply, especially when the agreement of sale of appellant is prior in time than that of the agreement of sale of respondent No.2

6] Respondent No.1 has no objection to provide electricity connection either to appellant or to respondent No.2 as may be directed by this Court. As admittedly the appellant is in possession of

the suit premises, it follows that the appellant should be entitled to get such electricity connection during the pendency of the suit. Hence order.

7] The appeal is allowed.

8] The impugned order passed by the trial Court is set aside.

9] The respondent No.1 is directed to accept the request of the appellant to grant electricity connection subject to requisite compliance.

10] In view of disposal of Appeal, pending Civil Application therein no more survives and the same is disposed off accordingly.

[DR.SHALINI PHANSALKAR-JOSHI, J.]