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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL APPEAL LODGING NO. 271 OF 2018
IN
NOTICE OF MOTION LODGING NO. 713 OF 2018
IN
COMMERCIAL SUIT LODGING NO. 397 OF 2018
WITH
NOTICE OF MOTION LODGING NO. 574 OF 2018

Ejas Developers Private Limited and ors.

.. Appellants/
Org. Defts.

Vs.

Jagdish Shetty and anr.

.. Respondents/
Org. Plffs.

Mr. C. R. Naidu a/w Mr. Shoaib I. Memon for appellants.
Mr. Mayur Khandeparkar a/w Mr. Vijay B. Dhingreja, Mr. Ravish Mishra,
Mr. Jayraj Shinde i/by Vijay B. Dhingreja for respondents.

CORAM: NARESH H. PATIL &
G. S. KULKARNI, JJ.

JUNE 14, 2018.

P.C.

1. We have heard the learned counsel for the contesting parties.

Perused the record placed before us.

2. The impugned order is an ad-interim order. The Notice of Motion (L) No. 713 of 2018 is listed before the learned Single Judge for final disposal on 2/7/2018. In the facts and circumstances of the case, we find that the appeal could be disposed of.

3. Till the Notice of Motion (L) No. 713 of 2018 is disposed of finally by the learned Single Judge, we make following arrangements and issue directions accordingly:

- (a) The appellants shall deposit 50% of the amount of Rs.79,80,000/- and furnish bank guarantee for the remaining amount within two weeks from today with the Prothonotary and Senior Master.
- (b) The learned counsel appearing for the appellants submits that the appellants are willing to hand over possession of the subject premises to the respondents. The learned Counsel for the respondents submits that the respondents would take possession of the subject premises without prejudice to their rights. The parties are at liberty to take such steps.

(c) In respect of prayer (f) granted by the learned Single Judge, the learned counsel for the appellants, on instructions, submits that there is no saleable area now remaining in the subject property so that question of creating third party interest does not arise. An affidavit to that extent be tendered before the learned Single Judge.

4. With the aforesaid observations and directions, appeal stands disposed of. All contentions on merits, in Notice of Motion pending before the learned Single Judge, are kept open.

5. Notice of Motion (L) No. 574 of 2018 does not survive and is disposed of.

(G. S. KULKARNI, J.)

(NARESH H. PATIL, J.)