

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

**APPEAL FROM ORDER NO. 897 OF 2019
WITH
CIVIL APPLICATION NO. 1069 OF 2019**

Nandanvan Co-op.Housing Society Ltd.	...Appellant
VS.	
Mumbai Metropolitan Region Development Authority & Anr.	...Respondents

Mr.J.B. Saha i/b. P.V. Dhopatkar for Appellant.
Mr.Kuldeep S. Patil for Respondent No.1.

CORAM : S.C. GUPTE, J.

DATE : 24 SEPTEMBER 2019

P.C. :

Heard learned Counsel for the parties.

2 This appeal from order challenges an ad-interim order passed by the City Civil Court at Dindoshi, Mumbai. By the impugned order passed on the draft notice of motion of the Appellant (original Plaintiff), the ad-interim application was refused.

3 The controversy concerns construction of a high power monopole by the Respondents (original Defendants) in execution of the ongoing work of construction of Metro line-2. It is the grievance of the Plaintiff that the Defendants are constructing the monopole within the property of the Plaintiff unauthorisedly. Under the Electricity Act, there is a power in the distribution company to install any transmission line for the purpose of supply of electricity. If the transmission line is within a private property, compensation has to be paid to the owner of the property. Payment of compensation being a money matter, no ad-interim relief can be entertained in that behalf.

4 It is also the grievance of the Plaintiff that as a result of construction of the monopole, the value of the Plaintiff's property would be reduced and that the monopole also would present danger to life as it was in very close proximity with the Plaintiff's building. It is also submitted that digging of the yard line has been causing vibrations and weakening the foundation of the Plaintiff's building and that this situation will be aggravated if the monopole is constructed within the property and close to the building. All these contentions have been found to be unfounded by the trial court. The trial court, in its impugned order, has observed that there was no material *prima facie* produced before the court in support of the Plaintiff's case on these matters.

5 There is no infirmity to be found in the assessment by the trial court in this behalf. The trial court has found that what was being done presently was shifting of the transmission line 2.5 metres towards the building and that was within the right of way granted to the transmission line and there was safety clearance in accordance with the regulations made in that behalf. The trial court has, accordingly, found that the Plaintiff had not made out any *prima facie* case. The view expressed by the trial court in this behalf is clearly a reasonable and probable view, which is supported by the material placed on record. No interference is warranted in the appeal.

6 There is, accordingly, no merit in the appeal from order. The appeal from order is dismissed.

7 At the request of the parties, the trial court is requested to dispose of the Plaintiff's notice of motion as expeditiously as possible.

8 In view of the disposal of the appeal from order, nothing survives in the civil application. The civil application is disposed of.

(S.C. GUPTE, J.)