

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

**APPEAL FROM ORDER (ST) NO. 23904 OF 2019
WITH
CIVIL APPLICATION (ST) NO. 23905 OF 2019**

Strata Co-op.Housing Society Ltd.	...Appellant
vs.	
Simplex Realty Ltd. & Ors.	...Respondents

Mr.Shyam Mehta, Senior Counsel and Mr.Gaurav Joshi, Senior Counsel with Mr.Naser Ali Rizvi I/b. Dua Associates for Appellant.
Mr.Fredun Devitre, Senior Counsel wioth Mr.Ashish Kamat, Aditya Thakkar, Mr.M.S. Federal, Murtiza Federal and Ms.Pauloni Mehta I/b. Federal & Co. for Respondent No.1.
Mr.Sanjay Damani, Director of Respondent No.1.

CORAM : S.C. GUPTE, J.

DATE : 5 SEPTEMBER 2019

P.C. :

The delay, if any, in filing the present appeal from order is condoned. Office to register the AO accordingly.

2 Heard learned Counsel for the parties.

3 This appeal from order challenges an order passed by the City Civil Court at Mumbai on a draft notice of motion taken out by the Appellant (original Plaintiff No.3). By the impugned order, the City Civil Court rejected the ad-interim application of the Appellant/Plaintiff.

4 After the matter is heard at some length, it is agreed between the parties that the appeal from order may be disposed of in terms of the

following order and it is, accordingly, ordered as follows :

(I) Learned Counsel for Respondent No.1, on instructions from his client, Mr.Sanjay Damani, Director of Respondent No.1, states that Respondent No.1 shall not carry out any construction on the suit property pending the hearing and final disposal of the notice of motion before the City Civil Court. It is made clear that since there has been activity earlier with respect to the proposed construction, any ancillary activity such as dewatering or maintenance in the nature of house keeping shall not be within the restriction undertaken by the statement noted above.

(II) Respondent No.1 shall file their reply to the additional affidavit dated 25 July 2019 filed by the Appellant/Plaintiff in Notice of motion No.2622/2019 before the trial court within a period of ten days from today.

(III) The Appellant/Plaintiff to file its rejoinder dealing with all replies including the additional reply/replies to be filed in pursuance of clause (II) above within a period of ten days of service of the additional affidavit referred to in clause (II) above.

(IV) The City Civil Court shall peremptorily dispose of the notice of motion as expeditiously as possible and at any rate within a period of three months from today. The learned Judge of the City Civil Court shall decide the notice of motion uninfluenced by any observations made so far either by the City Civil Court or by this court in the present appeal from order. It is made clear that both parties shall co-operate with each other and see that the time-lines recorded above are strictly complied with and not ask

for any further time.

(V) Apropos of the order dated 3 September 2019 passed in the present appeal from order, Clause (3) of the order shall stand deleted.

(VI) All rights and contentions of the parties on merits are kept open.

(VII) The appeal from order is disposed of.

(VIII) In view of the disposal of the appeal from order, the civil application does not survive and the same is also disposed of.

(S.C. GUPTE, J.)