

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

APPEAL FROM ORDER (ST.) NO.26921 OF 2019

Riyad Rashid Oomerbhoy	...	Appellant
Versus		
Mrs. Dureshwar Salim Begmohammed		
And Others	...	Respondents

.....

Mr. Jamshed Master a/w Nikita Menon i/b Rushad Irani for the Appellant.

Mr. Ajeet Manwani and Faisal Vora for Respondent Nos. 1 and 2.

Ms. Nidhi Salian i/b Apex Law for Respondent Nos.3 and 4.

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CORAM : S.C. GUPTE, J.

DATE : 04 OCTOBER 2019

P. C. :

. Heard learned Counsel for the parties.

2 The controversy in the present Appeal from Order concerns water leakage in the building occupied by the Appellant and some of the Respondents. The Appellant was the original plaintiff. In his Notice of Motion, he had sought mandatory injunction against Respondent No.2 herein (original defendant no.2) to give him access to the open terrace of the suit building ‘Noor Mansion’ with a view to carry out necessary repair work to the water tank/electric motor/pipeline placed on the terrace to ensure uninterrupted water supply to the plaintiff’s premises. Ad-interim reliefs were denied to the

plaintiff and that is how the present Appeal from Order has been filed. After the matter is heard at some length, it is agreed between learned Counsel for the plaintiff and defendant nos. 1 and 2 that the work of repairs to the water tank/pump/meter be carried out under the supervision and as directed by a Structural Engineer to be appointed from the panel of the court. It is agreed that these repairs shall be carried out by Respondent Nos.1 and 2, but at the cost of the Appellant. Accordingly, the Appeal from Order is disposed of in terms of the following order :

: O R D E R :

(i) Registry shall forthwith appoint a Structural Engineer from the panel of Engineers / Architects maintained by the Court Receiver's Office for suggesting repairs to the water tank/pump/electric meter concerned in the distribution of water to the Appellant's premises;

(ii) The Structural Engineer shall visit the suit premises in the presence of the Appellant and Respondent Nos. 1 and 2 or their representatives and make recommendations for repairs within two days of such visit. If the Structural Engineer is of the view that as part of repairs, any particular component/s needs to be replaced, he is free to make such suggestion ;

(iii) Based on the directions of the Structural Engineer and under his supervision, the repair work shall be carried out by Respondent Nos.1 and 2 within one week from of the Structural Engineer's inspection ;

(iv) Costs of such repairs shall be borne by the Appellant ;

(v) Respondent Nos.1 and 2 shall requisition such costs by supplying a bill prepared with the approval of the Structural Engineer to the Appellant and within two weeks of such submission, the amount shall be paid by the Appellant.

3 This order shall operate as an ad-interim order pending the hearing and final disposal of Notice of Motion No.3267 of 2019.

(S.C. GUPTE, J.)