

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.805 OF 2018

WITH

CIVIL APPLICATION NO.1043 OF 2018

IN

APPEAL FROM ORDER NO.805 OF 2018

WITH

CIVIL APPLICATION NO.1044 OF 2018

IN

APPEAL FROM ORDER NO.805 OF 2018

Ashwin Niranjana Wadhwa And Anr. ...Appellants

vs.

Hariram Mohandas Wadwa

through his Legal heirs & Others ...Respondents

WITH

APPEAL FROM ORDER NO.806 OF 2018

Sai Sharddha Associates Thr. Its Partner

(Appellant 2,3,4) ...Appellants

vs.

Ashwin Niranjana Wadhwa And Ors. ...Respondents

.....

Mr. Shishir Joshi, i/b. Ms. Hemali Kurne, for the Appellants in AO/805/2018.

Mr. Anil V. Anturkar, Senior Advocate, i/b. Mr. Sandeep M. Pathak, for the Appellants in AO/806/2018.

Ms. Neuty N. Thakkar for Respondent Nos. 1(a) to 1(d) in AO/805/2018 and for Respondent Nos. 3(a) to 3(d) in AO/806/2018.

Mr. Rajendra V. Pai, i/b. Ms. Apurva M. Bhat, for Respondent Nos. 4(a) to 4(c) in AO/805/2018 and for Respondent Nos. 6(a) to 6(c) in AO/806/2018.

Mr. Rohit P. Sakhadeo, for Respondent No.9 in AO/805/2018 and for Respondent No.7 in AO/806/2018.

Mr. Ajay More, i/b. Ms. Vandana Mehta, for Respondent No.16 in

AO/805/2018 and for Respondent No.14 in AO/806/2018.

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CORAM : S.C. GUPTE, J.

DATED : 16 SEPTEMBER 2019

P.C. :

. After the matter is heard at some length, by consent of the parties, who are directly interested in the development rights vis-a-vis the suit property and also considering the fact that it would be in the interest of justice to do so, the appeal from order is disposed of in terms of the following order:

(i) The hearing of the special civil suit is expedited. The Court of Civil Judge, Senior Division, Pune, hearing the special civil suit, is requested to dispose of the suit as expeditiously as possible and preferably within a period of six months from today. All parties shall co-operate for expeditious disposal of the suit and not seek any accommodation. All parties, who have not so far filed their written statement, are directed to do so within a period of four weeks from today. It is made clear that in case these parties do not file any written statement, the suit shall proceed without such written statement.

(ii) The application of Respondent Nos. 1 and 4 (heirs of original defendant nos. 1 and 4) for amendment of their written statement, shall be decided within a period of four weeks from today.

(iii) Based on the written statements already on record and to be filed by such of the Respondents, as have not so far filed the same, in

accordance with the directions as above as also as a result of the outcome of the application for amendment referred to above, the trial court shall proceed to frame issues. Framing of issues must be accomplished within a period of eight weeks from today.

(iv) The trial court shall, thereafter, receive evidence and hear the parties and dispose of the special civil suit without being in any way influenced by the impugned order dated 3 October 2017 as also the observations in the present order.

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

(vi) Within a period of four weeks from today, Respondent No.5 herein (original defendant no.5) shall give inspection and furnish copies of transfer of development right agreements, referred to in paragraph 5 of its written arguments, to the Appellants (original plaintiffs).

(vii) The plaintiffs would be at liberty to implead such of the third parties, as they may deem fit, after inspection of the TDR agreements is afforded to them by defendant no.5. Such impleadment application shall be made within two weeks of inspection being given. The newly added defendants shall have four weeks' time to file their written statement.

(viii) The impugned order dated 3 October 2017 shall, in the meanwhile, continue to operate as an interim order. It is made clear

that any further exploitation of development rights as well as creation of third party rights by any of the parties to the suit, shall be subject to the outcome of the special civil suit.

2. The appeals from order are disposed of in the above terms.

3. In view of the disposal of the appeals from order, the civil applications do not survive and are disposed of.

Smita
Gonsalves

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(S.C. GUPTE, J.)