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

**APPEAL FROM ORDER NO. 386 OF 2019
WITH
CIVIL APPLICATION NO. 460 OF 2019
IN
APPEAL FROM ORDER NO. 386 OF 2019**

Irfan Usman Qureshi ..Appellant/Applicant
vs.
M/s.Rizvi Estates & Hotels Private
Limited & ors. ..Respondents....
Shri Angad Giri for appellant/applicant.
Shri Dhrupad Patil a/w. Mahesh Mishra I/b. Ravi Thakkar for
respondent No.1.
Mr. Rishikesh Soni & Raveena Yadav with Aditi Yadav I/b.
Ashok Purohit & Co. for respondent No.3 – SRA.

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CORAM : M.S.KARNIK, J.

DATE : 7th JUNE, 2019

P.C. :

Heard learned Counsel for the appellant.

2. The challenge in this Appeal is to an order dated 4th
December, 2018 refusing grant of ad-interim relief.

3. It is the case of learned Counsel for appellant that he is occupying one structure for which the electricity bills are issued in his name. He would submit that though Annexure – II came to be prepared in the year 2006, the said structure belonging to him was not reflected in Annexure – II. The trial Court has refused to grant an ad-interim relief on the ground that the plaintiff failed to produce any document to show how the plaintiff came in possession of the said structure. Further, the trial Court held that there is a delay in challenging Annexure – II, because Annexure – II is of the year 2006. Learned Counsel would submit that he is in fact an eligible occupant. He would submit that inadvertently the structure was not shown in Annexure – II.

4. Learned Counsel for respondent No.1 invited my attention to the order dated 29th November, 2018 passed by this Court in Writ Petition (L) No. 4011 of 2018. He pointed out that the petitioners therein has specifically raised contention that there are total 4 structures and the orders are passed in respect

of 2 structures. The specific contention was raised by the petitioners that remaining 2 structures are still being considered for eligibility in the application before the competent authority. The application was preferred against the order dated 5/11/2018 passed under Sections 33/38 of the Maharashtra Slum Areas (I.C & R.) Act, 1971. This Court has observed that the controversy is resolved by an order dated 5/11/2018 issued by the Superior Authority.

5. In my opinion, the additional factor which needs to be considered is that the appellant herein approached the Deputy Collector (Encroachment/Removal) and Competent Authority for including his name in Annexure – II. By a reasoned order dated 10th January, 2019, the Deputy Collector and Competent Authority has rejected the said application. Learned Counsel for respondent No.1 points out that the Appeal is preferred before the Additional Collector (Encroachment/Removal) and which is pending. In this view of the matter even as the appellant has availed of remedies for including his name

in Annexure – II and as even the said application is rejected by the Deputy Collector (Encroachment/Removal) and Competent Authority on 10th January, 2019, the Appeal against which is pending, I see no reason to interfere with the order passed by the trial Court refusing grant of ad-interim relief. As rightly held by the trial Court there is no sufficient material on record to indicate how the appellant came in possession of the said structure. The Appeal from Order is therefore rejected and disposed of accordingly.

6. In view of the disposal of the Appeal, nothing survives for consideration in the Civil Application. The Civil Application is therefore disposed of.

(M.S.KARNIK, J.)