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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER (ST) NO. 27685 OF 2019

Maharashtra State Road Development
Corporation Ltd. (MSRDC)

... Appellant
(Orig. Defendant.)

Versus

M/s. Resco Amusement Pvt. Ltd.

... Respondent.
(Orig. Plaintiff.)

Mr. Dr. Milind Sathe, Sr. Advocate a/w Mr. Arun Siwach, Ms. Prachi Vasudeo
i/b Cyril Amarchand Mangaldas for the Appellant.

Ms. Pratima Soundalkar i/b M/s. Solicis Lex for the Respondent.

CORAM : A. S. GADKARI, J.

DATE : 30th JANUARY, 2020

P. C. :

1. Heard learned counsel for the respective parties.
2. Admit.
3. By the impugned Order dated 6th August 2019, the Trial Court has rejected the application preferred by the appellant below Exhibit 43, seeking permission to initiate the process of tendering, during the pendency of the said Special Civil Suit No. 348 of 2016 filed by the respondent.
4. The Orders dated 5th November 2019 passed by this Court, about maintainability of the Appeal from Order and dated 17th December 2019, thereby granting permission to the appellant-Corporation to initiate tendering process with respect to the suit property, were challenged before the Hon'ble Supreme Court by the respondent by way of Special Leave to Appeal (C) No. 1087-1088 of 2020. The Hon'ble Supreme Court, by its

Order 24th January 2020 was pleased to dismiss the said Special Leave Petition. Thus, the Orders dated 5th November 2019 and 17th December 2019 have not been interfered with by the Hon'ble Supreme Court. As this court has granted permission to the appellant for initiating tendering process by its Order dated 17th December 2019, the Order dated 6th August 2019 impugned herein does not survive and is accordingly set aside.

Appeal is allowed in the aforesaid terms.

5. Mr. Sathe, learned Senior Counsel appearing for the appellant submitted that, as far as the Order dated 7th September 2017 passed below Exhibit-5 in the said suit, thereby granting injunction against the appellant–Corporation is concerned, appellant has already filed an application below Exhibit-53 for vacating the said interim relief on the ground that, the period of lease pertaining to the suit property has already come to an end in August 2019.

As the said application is *sub-judice* before the Trial Court, it will not be appropriate for this Court to make any observation in that behalf.

6. However, the learned 2nd Joint Civil Judge, Senior Division, Panvel, seized of the Special Civil Suit No. 348 of 2016, is hereby directed to expedite the hearing of the said application filed below Exhibit-53 by the appellant and to make an endeavour to conclude the hearing of the same within a period of four weeks from the date of production of this Order.

7. All the concerned to act on authenticated copy of this Order.

(A. S. GADKARI, J.)