

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO. 103 OF 2020
IN
NOTICE OF MOTION NO. 2562 OF 2019
IN
SUIT NO. 1008 OF 2019

WITH
INTERIM APPLICATION (L) NO. 20658 OF 2021

Sudhir Popatlal Kotak .. Appellant
Versus
Cutchi Lohana Niwas Graha Trust & Ors. .. Respondents

WITH
WRIT PETITION NO. 150 OF 2019
WITH
CHAMBER SUMMONS NO. 20 OF 2019

Gold Plaza Developers Pvt Ltd & Anr. .. Petitioners
Vs
The State of Maharashtra & Ors. .. Respondents

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- Mr. Aloukik R. Pai i/by Neuty N. Thakkar for the Appellant in APP/103/2020 & for Respondent No. 5 in WP/150/2019
 - Mr. Shyam Mehta, Senior Advocate a/w Mr. Rohaan Cama, Mr. Kiran Jain, Mr. Ish Jain, Mr. DeeJ Jain & Ms. Priyal Jain i/by Kiran Jain & Co for Respondent No. 2 in APP/103/2020 & for the Petitioners in WP/150/2019
 - Mr. Ashish T. Suryawanshi for Respondent No. 1 in APP/103/2020
 - Mr. Kushal Amin a/w Mr. Smeet Savla i/by S.K. Srivastava & Co for Respondent No. 3 in WP/150/2019
 - Ms. Uma Palsudesai, AGP for the State - Respondent No. 3 in APP/103/2020
 - Ms. Jyoti Chavan, AGP for the State - Respondent Nos. 1 and 2 in WP/150/2019
 - Mr. Jeetendra Ranawat i/by Waquar Ahmad for the Applicant in CHSW/20/2019

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CORAM : S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.

DATE : SEPTEMBER 28, 2021.

P.C.:

The Appellant has filed the above Appeal impugning the order passed by the learned Single Judge dated 16.09.2019, whereby ad-interim relief sought by the Appellant / Plaintiff is not granted. Upon reading of the impugned order, it appears that in a Suit filed before the City Civil Court bearing No. 716/2011, the present owner / developer has been restrained from dispossessing the Plaintiffs therein including Plaintiff No. 1 in the Suit from the rooms in their occupation and from redeveloping the suit property except by following due process of law. In view of this protective order being in force, the learned Single Judge was not required to grant any protective ad-interim relief in favour of the Appellant. In view thereof, the order passed by the learned Single Judge and impugned before us cannot be faulted. We however, pass the following order:-

- (i) The learned Single Judge is requested to hear and dispose of Notice of Motion No. 2562 of 2019 along with Interim Application No. 1456 of 2021 finally within a period of eight weeks from today.
- (ii) Respondent No. 2 shall file additional affidavit in reply within a period of two weeks from today. Rejoinder, if any, shall be filed within one week thereafter.

- (iii) Learned Single Judge shall pass his orders without being influenced by what is recorded in the order dated 16.09.2019. All contentions of the parties are kept open.
- (iv) Pending the Notice of Motion, the Appellant shall not be dispossessed save and except by following the due process of law.
- (v) The above Appeal i.e. Appeal No. 103 of 2020 along with Interim Application (L) No. 20658 of 2021 stand disposed off accordingly.
- (vi) Writ Petition No. 150 of 2019 and Chamber Summons No. 20 of 2019 be placed for directions on 5th October, 2021.

[MILIND N. JADHAV, J.]

[S. J. KATHAWALLA, J.]

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