

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

**APPEAL FROM ORDER NO.112 OF 2022  
ALONG WITH  
INTERIM APPLICATION NO.634 OF 2022**

Vishwanath Shahaji Awaghade  
V/S

....APPELLANT

The Chairman,  
Pragati CHS Limited & Ors.

....RESPONDENT

Mrs. Sapna Shankar Krishnappa, for Appellant  
Mr.Prakash Lad a/w Ms. Shreya Shah, for Respondent (MHADA)  
Mr. Bhushan Deshmukh i/b. Ajay R. Kuruwanth, for Respondent No.1  
Mr. Rohan Rajyadhyaksha a/w Mohnish Chaudhari, for Respondent  
No.2.

...

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**

**DATED : 18<sup>th</sup> JULY, 2022.**

**P. C. :-**

1. Appellant herein has challenged the order dated 04.02.2022 whereby learned Judge declined to grant ad interim relief in Notice of Motion No. 2973 of 2021 in Short Cause Suit No. 2440 of 2021.

2. The Appellant is a members of the Respondent No.1 Society. The Respondent No.1-Society has entered into development agreement dated 19.01.2021 with Respondent No.2 Developer in respect of said City Survey No. 236A part CTS No. 186 part village Ghatkopar,

Mumbai. The Appellant, who is a member of Respondent No.1 society herein has challenged the said development process as well as the resolution passed by the Society appointing respondent No.2 as the developer. It is stated that out of 30 members, 26 members have supported the resolution for redevelopment have vacated the premises. The Appellant and Respondent Nos. 4 and 6 are the only occupants, who have resisted development. They had filed Writ Petition(Lodging) No. 3328 of 2022 challenging notice under Section 95 A of the MHADA Act. Order dated 02/05/2022 in the said Writ Petition records the statement of the Respondent-Developer that he was ready to give Bank Guarantee of Rs. 2 crore to the Respondent society and in addition two flats from the sale component would be kept as security.

3. Learned counsel for the Respondent No.2 has stated that Respondent No.2 has complied with the said statement. The Appellant, who is a member of the society prima facie cannot individually challenge the decision taken by the majority in a properly convened meeting. The Applicant has failed to make out prima facie case. The other members have already vacated the premises. Grants of interim relief as prayed by the Appellant, will stall the development process and cause immense hardship to the other members, who have already

vacated the premises.. Hence I do not find any reasons to interfere with the impugned order. Hence, Appeal is dismissed. Interim Application stands disposed of.

**(SMT. ANUJA PRABHUDESSAI, J.)**