

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.201 OF 2022
WITH
INTERIM APPLICATION NO.2113 OF 2022
WITH
INTERIM APPLICATION NO. 1346 OF 2022
IN
APPEAL FROM ORDER NO.201 OF 2022**

Rajkamal Co-operative Housing Society .. Appellant
Limited

Versus

Milind Surendra Kadam and ors .. Respondents

...

Mr.Naushad Engineer with Viraj Parikh i/b Dharmesh Jain for
the appellant.

Mr.Santosh Parad for respondent 3 and 4 MCGM.

**CORAM: BHARATI DANGRE, J.
DATED : 4th APRIL, 2022**

P.C:-

1 Present Appeal can be disposed off with a direction
being issued to the City Civil Court to culminate the proceedings
in the Notice of Motion within a time frame.

2 Appeal is filed being aggrieved by an order passed by
way of ad-interim relief in a Suit filed by the plaintiffs, seeking an
order of restraining the defendants from acting in terms of the

notice issued u/s.351 of the MMC Act as well as the Speaking order passed by the Corporation.

The plaintiff claim to be the owners of the suit property and the defendant Corporation has issued the said notice.

3 The order dated 20/12/2021 did not consider the argument of the defendant to the effect that the property has been redeveloped and the notice structure is not to be seen in the sanctioned plan and therefore, it is 'unauthorized'. By recording that from the sanctioned map, it is not clear at this stage that it is pertaining to the suit structures, the learned Judge directed the defendant to file the reply and also passed an ad-interim relief.

5 The present Appeal being filed by the Co-operative Society, who claim it's ownership over the suit property, seek their impleadment in the L.C. Suit, filed by one of the member of the Society. The appellant is not however, impleaded as a party to the Suit and he has taken out Chamber Summons seeking his impleadment by relying upon the settled position of law to the effect that since the appellant have interest in the property, the impleadment is imperative. The request to that effect is pending before the trial Court.

6 The present Appeal deserve a disposal by the following direction being issued to the City Civil Court, Mumbai :

- (i) Necessary orders be passed upon the Chamber Summons taken out by the appellant within a period of two weeks from today.
- (ii) Notice of Motion which was already expedited by the impugned order shall be culminated within a period of four weeks from the date of passing of order on the Chamber Summons.
- (iii) The parties shall maintain the position as directed by the City Civil Court in its order dated 20/12/2021 till the culmination of the Notice of Motion.

With the aforesaid direction, AO is disposed off.

7 In view of the disposal of the AO, Interim Application Nos. 2113/22 and 1346/22 do not survive and are disposed off accordingly.

(SMT. BHARATI DANGRE, J.)