

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

**APPEAL FROM ORDER NO. 648 OF 2022
WITH
INTERIM APPLICATION NO. 9977 OF 2022**

Ambit Builders & Developers & Anr. ..Appellants.

v/s.

Benito Anthony D'Souza & Ors. ..Respondents

Mr. Mayur Khandeparkar a/w. Mr. Arun Pednekar and Mangesh Sawant
for the Appellant/Applicant.

Mr. Yash Momaya a/w. Mr. Yogesh Gaikwad i/b. M/s. Bilawala & Co.
for the Respondent Nos.1 to 4 .

Mr. A.P.Steenson i/b. APS Law for the Respondent No.5.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 20th JULY, 2022.**

P.C.

1. The Appellant herein has challenged the Order dated 9.4.2021 in Notice of Motion No. 859 of 2021 in S.C.Suit No.665 of 2021, whereby the learned Judge, City Civil Court, Dindoshi, has by ad-interim relief directed the Respondent Society to maintain status quo.

2. The Plaintiffs- slum dwellers have filed a suit seeking declaration of their ownership rights in respect of the suit property viz. 6 residential structures and a shop, more particularly described in para (3) of the plaint.

3. The Plaintiffs have filed a suit apprehending that they will be

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dispossessed from the suit property in view of redevelopment of the property in terms of Development Agreement dated 26.08.2020, without following due process of law. The Plaintiff also filed Notice of Motion seeking to restrain the society and the developers from dispossessing or evicting them from the suit property without following due process of law. The learned Judge has directed all the parties to maintain status quo. Being aggrieved by this order, the Appellant Developer has filed this appeal.

4. Mr. Khandeparkar, learned Counsel for the Appellant states that the relief sought in the Notice of Motion was to restrain the society and the developer or any other person acting through them from dispossessing the Plaintiffs without due process of law. However, the learned Judge has directed the Defendant No.1 to maintain the status quo. Learned Counsel for the Appellants submits that with the status quo order the Appellant Developer will not be in a position to take any steps in implementation of the Development Scheme. Prima facie, there appears to be merit in the contention. The Development process cannot be stalled. The restrain order can be only to prevent the Developer or Society taking law in hand and forcibly dispossessing the Plaintiffs without taking recourse to law.

5. Learned Counsel for the Appellant as well as learned Counsel for the Respondent Society makes a statement that the Plaintiffs shall not be dispossessed from the suit premises without following due process and

without following the procedure under the Slums Act. In view of the said statement, and with consent, the impugned order is modified to the extent the Respondent Society and the Respondent Developer and or any other person claiming through them are restrained from dispossessing the Plaintiffs from the suit premises without following due process of law till the notice of motion is decided on merits.

6. The Appeal as well as Civil Application stand disposed of in above terms.

(ANUJA PRABHUDESSAI, J.)