

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

***APPEAL FROM ORDER NO.539 OF 2019
WITH
CIVIL APPLICATION NO.8 OF 2022
WITH
CIVIL APPLICATION NO.620 OF 2019***

Maya I. Fatnani and Anr.

...Appellants

Vs

Mangal Kunj Co-operative Housing
Society Limited and Ors.

...Respondents

...

Mr. Karl Tamboly with R.M.Jayakar i/by Jayakars for the
Appellants.

Mr. Rahul Rao i/by V.M.Jhaveri for R.No.1.

CORAM : SANDEEP K. SHINDE J.

DATE : MARCH 21, 2022.

P.C. :

Pending suit, instituted, by the Mangal Kunj Co-operative Housing Society Limited , the learned trial Judge vide order dated 6th April, 2018, injuncted appellants (Defendant Nos.1 and 2) from erecting any structure in the open space area admeasuring 3,000 sq.ft. in front of Shop Nos.3 to 6 or from covering the said area in any manner and preventing the plaintiff's society, its members/residents free and un-restricted access to the said open

compound area, till next date. This order is under challenge in this appeal. Taking note of the fact that, ad-interim order is in force since April, 2018, it would be appropriate, not to interfere with this order after four years. In the given set of facts, it would be in the interest of parties if the trial Court is requested to dispose of the Notice of Motion on its own merits without being influenced by the impugned order.

2 In that view of the matter, the appeal is disposed of. The trial Court shall decide the Notice of Motion No.1216 of 2018 in Short Cause Suit No.770 of 2018 preferably on or before 6th May, 2022 on its own merits and without being influenced by the impugned order.

3 All contentions of the respective parties are kept open.

4 Needless to state that till the disposal of the Notice of Motion, ad-interim order shall continue to operate.

5 Appeal is disposed of with all the applications therein.

(SANDEEP K. SHINDE, J.)