

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1553 of 2022

M/s.Blue Hills Properties And Investment Pvt.Ltd	.. Petitioner
Versus	
Hasmukhlal Ashok Kumar	.. Respondent

...

Mr. Javed Akhtar Khan for the petitioner.

CORAM: RAVINDRA V. GHUGE, J.
DATED : 17th FEBRUARY, 2022

P.C:-

1 By this petition, the petitioner seeks to challenge an interlocutory order dated 10/8/2021 delivered by the trial Court below Exhibit-34 in R.A.E & R. Suit No.1131/2015 and the order dated 8/9/2021 vide which the learned Bench of the Appellate Court of Small Causes, Mumbai has dismissed Miscellaneous Appeal No. 148/2021.

2 I have considered the submissions of the learned Advocate for the petitioner plaintiff. There is no dispute that an application Exhibit-24 seeking injunction against the defendant, is pending.

3 The contention of the petitioner is that the defendant is carrying out changes in the permanent structure of the flat

under the pretext of carrying out repair work. A Court Commissioner was appointed by order dated 23/7/2021. The report is submitted to the Court. It is noted in the report that the repairing work in the suit premises is going on. The disputed issue is as to whether MHADA is carrying out the repairs, or an independent person. The independent person Mr.Faisal Sayed has filed an affidavit dated 9/8/2021, clarifying that he has acquired the contract from MHADA to carry out the repair work as per the work order. While rejecting Exhibit-34, the trial Court has recorded that if MHADA is carrying out the repairs, there cannot be an order injuncting such repair work from being carried out. Whatever the petitioner has to contend, can be considered in the pending Exhibit-24 injunction notice.

4 It is informed that the next date in the matter is posted on 19/3/2022.

5 In view of the above, this Petition is disposed off.

6 The learned trial Court would ensure that the petitioner and the defendant shall advance their oral submissions on Exhibit-24, on 19/3/2022 and if the submissions are not completed on the same day, they can be completed by 21/3/2022. Written notes of submissions are also permitted. Thereafter, the trial Court would endeavour to pass it's order on Exhibit-24, on or before 5/4/2022.

RAVINDRA V. GHUGE, J