

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

***APPEAL FROM ORDER NO.1060 OF 2019***  
***WITH***  
***INTERIM APPLICATION NO.2440 OF 2019***

—

M/s. Gada Enterprises  
Vs  
Mohan Balwant and Ors.

...Appellant  
...Respondents

...

Mr. Girish Godbole with Mr. Mayur Khandeparkar with Mr. Ranjeev Carvalho i/by Mr. Yogesh N. Adhia for the Appellant.

Mr. Vishal Kanade i/by Mr. Devendra Udani for Respondent Nos.1 to 7.

***CORAM : SANDEEP K. SHINDE J.***  
***DATE : FEBRUARY 21, 2022.***

***P.C. :***

Pending, Short Cause Suit No.1600 of 2019 instituted by the appellant, for seeking decree, of specific performance, of the Development Agreement dated 10<sup>th</sup> May, 2004 in respect of Plot No.684, 631 and 689, Trial Court declined ad-interim relief vide order dated 7<sup>th</sup> October, 2019. That order is challenged in this Appeal under Order 43 Rule 1(r) read with Section 104 of the Code of Civil Procedure, 1908. Paragraph 8 of the impugned

order, reveals, that the vendors (Defendants) have created rights in favour of M/s. Next Space Realty LLP concerning two suit plot nos.631 and 639, and this fact was neither disclosed by the defendants earlier nor it was within the knowledge of the plaintiffs. Whereafter, plaintiffs filed Chamber Summons No.90 of 2022 for adding subsequent purchaser- M/s. Next Space Realty LLP as defendants. That Chamber Summons is pending for consideration. Additionally, pending suit, defendant no.34-Ansar Irshad Khan passed away. Thus, Chamber Summons No.87 of 2022 is moved to bring his legal representatives on record.

2           Thus, taking overview of the facts, it would be advantageous and in the interest of justice, if the trial Court is directed to dispose of Notice of Motion No.3353 of 2019, Chamber Summons Nos.90 of 2022 and 87 of 2022 preferably before 31<sup>st</sup> May, 2022, on its own merits by ignoring the prima-facie observations made in the impugned order dated 7<sup>th</sup> October, 2019.

3 All contentions of the respective parties are expressly kept open. Appeal is disposed of in aforesaid terms.

4 As the appeal itself is disposed of, nothing survives in the Interim Application therein and same is also disposed of.

**(SANDEEP K. SHINDE, J.)**