

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 2852 OF 2021

IN

COMMERCIAL SUIT NO. 600 OF 2018

Amit Pradyuman Bhankaria

...Applicant

In the matter between

Ashish Pradyuman Bhankaria & Ors.

...Plaintiffs

Versus

Amit Pradyuman Bhankaria & Ors.

...Defendants

Dr. Abhinav Chandrachud a/w Mr. Shah i/by Cyril Amarchand Mangaldas for the Applicant/Defendant No. 1.

Mr. Rohaan Cama, Mr. Shanay Shah a/w Mr. Shashwat Rai i/by Keystone Partners for the Plaintiffs.

Mr. Pankaj J. Das for the Defendant No. 3-CIDCO.

CORAM : R.I. CHAGLA J

DATE : 04 July 2022

ORDER :

1. Heard Dr. Abhinav Chandrachud, learned Counsel appearing for the Applicant/Defendant No. 1 and Mr. Rohaan Cama, learned Counsel appearing for the Plaintiffs. Mr. Pankaj Das, learned

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Counsel appears for CIDCO.

2. By this Interim Application, relief is sought for variation, modification of the order dated 23rd April 2018 read with subsequent orders dated 2nd May 2018, 30th July 2018 and 13th August 2018.

3. Dr. Chandrachud on behalf of the Applicant/original Defendant No. 1 has referred to order dated 23rd April 2018 by which this Court had directed the parties to maintain *status quo* in respect of the assets of M/s. Bhankharia Sons including the plots described in Exhibit-F annexed to the Plaint.

4. Dr. Chandrachud has submitted that the *status quo* which this Court had directed to be maintained, covers the subject property which is the subject matter of agreement to lease dated 31st December 2015 between the Defendant No. 3-CIDCO and M/s. Bhankharia Sons, which Partnership Firm was represented by Defendant Nos. 1 and 2 as partners. Under the agreement to lease, M/s. Bhankharia Sons were to commence construction within a period of 12 months from the date of the said agreement and within

two years from the date of the said agreement complete such construction. Under Clause 5 of the said agreement, the powers of the Defendant No. 3-CIDCO have been set out and it is provided that until the building and works have been completed and certified as completed in accordance with Clause 7 of the said agreement, CIDCO shall have right and powers which include right to enter upon the subject property to view the state and progress of the work and further to resume the land/subject property should the licensee fail to commence and/or complete construction thereon to the satisfaction of the Defendant No. 3-CIDCO.

5. Accordingly, it is submitted that as the Defendant Nos. 1 and 2 under the said agreement have not been in a position to commence the construction on the subject property in view of the *status quo* order, the Defendant No. 3-CIDCO may be in a position to act under the said agreement by resuming the subject property. Accordingly, a clarification is sought namely that the order dated 23rd April 2018 which directs the parties to maintain *status quo* in respect of the assets of M/s. Bhankharia Sons, includes the subject property and is binding on Defendant No. 3-CIDCO.

6. Mr. Cama, learned Counsel appearing for the Plaintiffs has no objection to such clarification, provided the rights and contentions of the Plaintiffs insofar as the agreement to lease dated 31st December 2015 is kept open.

7. Accordingly, in view thereof, it is clarified that the order dated 23rd April 2018 directing the parties to maintain *status quo* in respect of the assets of M/s. Bhankharia Sons including the plots described in Exhibit-F annexed to the Plaint shall cover the subject property which is the subject matter of agreement to lease dated 31st December 2015 and that Defendant No. 3-CIDCO being a party to the Suit is bound by the said order and cannot act in any manner contrary thereto.

8. It is clarified that the rights and contention of the Plaintiffs in the above Suit as well as in the Interim Application taken out therein has been expressly kept open.

9. This order is passed without considering the validity of the agreement to lease dated 31st December 2015.

10. Interim Application No. 2852 of 2021 is accordingly disposed of in the above terms.

11. There shall be no order as to costs.

[R.I. CHAGLA J.]