

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.199 OF 2013
WITH
CIVIL APPLICATION NO.235 OF 2013
WITH
APPEAL FROM ORDER (ST.) NO.19580 OF 2016

M/s. Giriraj Developers and Others .. Appellants.
v/s.
M/s. La'builde Corporation
& Another .. Respondents.

Mr. Vijaysinh A. Thorat, Sr. Advocate with Mr. R. B. Jagtap, Mr. Nikhil Davase, Mr. Aniesh Jadhav i/b. Mr. Ashok Tajane, for the Appellant in AO No. 199 of 2013.

Dr. Uday Warunjikar with Mr. Vasim Shaikh i/b. Pravin Mohta & Mithi & Co., for the Respondents

CORAM: G.S. KULKARNI,J.
DATED : 17th FEBRUARY, 2023.

PC:-

These two appeals are pending final hearing. These Appeals were admitted by orders dated 20th February, 2013 and 3rd April, 2013 respectively.

2 The First proceeding being Appeal from order No.199 of 2013 is filed by the Appellant being aggrieved by an order dated 11th December, 2012 passed by Civil Judge, Senior Division, Pune in Special Suit No.1478 of 2013 being a common order passed by Learned Trial Judge in proceedings of two suits being Special Suit No. 1478 of 2007 (M/s. Giriraj Developers v/s. M/s. La'Builde Corporation & Another) and in the Regular Civil Suit No. 1209 of 2005 (M/s. La'Builde Corporation v/s. M/s. Giriraj

Developers). The impugned order is passed below Exh. 75 in Special Suit No. 1478 of 2007 and Exh. 5 in Regular Civil Suit No. 1209 of 2005. The operative part of the order is required to be noted which reads thus:-

“ Application Exh. 58, 64 and 75 in SCS No. 1478/2007 are dismissed.

2 Application Exh. 5 in RCS No.1209/2005 is allowed and the defendant is restrained from entering into the suit property and disturbing the possession of plaintiff over the suit property, pending the suit.

3 Cost will be cost in the cause.

4 Copy of the order kept in RCS No.1209 of 2005.”

3 The second proceedings is Appeal from Order (St.) No. 19580 of 2016 which challenges the same order as in the abovesaid appeal. It is seen that two suits in question are of the year 2005 and 2007 respectively.

4 During pendency of these appeals, an interim order dated 25th February, 2013 was passed. The said order is required to be noted which reads thus:-

“ Heard both sides. Since the substantive matter is pending before this Court in order to avoid any conflicting orders and bearing in mind the convenience of the parties, the proceedings in Misc. Appeal No.16 of 2013 filed by the applicant in District Court, Pune against the common orders in Special Civil Suit No.1478 of 2007 and Regular Civil Suit No.1209 of 2005 is transferred to this Court and for being heard with Appeal From No.199 of 2013. The Misc. Civil Application is allowed accordingly. The Registry to call for the records and proceedings from the court below by forwarding a copy of this order by fax, e.mail and equally by regular modes. Adinterim order passed by the District Court

during the pendency of the appeal be continued for a period of three weeks from today. Registry to call for records and proceedings urgently and shall not wait for any official communication by Postal authorities.”

5 It is informed at the bar that as the record and proceedings were called for, the suits have remained pending.

6 In the aforesaid circumstances, it is appropriate and as rightly suggested on behalf of the parties that the present proceedings need not be kept pending and the parties may be permitted to raise all their contentions in the pending suits. However, interim arrangement in terms of the order dated 25th February, 2013 passed by this Court shall operate till the final disposal of the suits in question. It is ordered accordingly.

7 The Record and Proceedings be transferred to the concerned Court within a period of one week from today. Parties are also directed in the first instance to appear before the Trial Court on 28th February, 2023 so that the Trial Court can fix the further dates.

8 Appeals from orders are disposed of in the above terms. No costs.

9 As the suits are substantially old, the Trial Court shall make an endeavor to dispose of the suits as expeditiously as possible and in any event by 31st December, 2024.

10 The parties are also directed to co-operate for the early disposal of the suit.

(G.S. KULKARNI,J.)