

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

**APPEAL FROM ORDER NO.213 OF 2023
WITH
INTERIM APPLICATION NO.2639 OF 2023**

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Cornell Housing Infrastructure Private Limited ...Appellant/
Ori.Defed.No.27
vs.
Kailash Popatlal Shah and Others ...Respondents

Mr. Darius Khambata, Senior Advocate a/w. Mr. Kunal Vajani, Mr. Tushar Hetalrami, Prasanna Tare, for the Appellant..
Mr. Shubhang Tonden a/w. Ms. Akshda Shetye, for Respondent Nos. 18 to 21 and 24 to 26.
Mr. Zal Andhyarujina a/w. Mr. Amey Deshpande, Ms. Akansha Agrawal, for Respondent Nos. 1 to 17.
Mr. Rubin Vakil a/w. Mr. Mahek Kamdar, Mr. Harsh Chokshi i/b. Kanga & Co., for Respondent Nos. 23, 27 to 30.

CORAM : N. J. JAMADAR, J.
DATE : APRIL 05, 2023

P.C.:

1. This appeal is directed against the order passed on application (Exhibit 5) in Spl. C.S. No. 776 of 2011 dated 21st October, 2022 whereby and whereunder the appellant/ defendant No. 27 along with defendant Nos. 1 to 4, 8 to 10, 26, 28 and 29 have been temporarily restrained from creating third party interest in, and parting with possession of, the suit property till the decision of the suit. The appellant/ original defendant No. 27 is further restrained from acting upon the Lease Deeds in any manner, till the decision of suit.

2. The learned counsel for the appellant invites attention of the Court to the observations of the trial Court in paragraph 41 wherein while deciding the point of irreparable loss, the learned Judge observed that if the trial is directed to be proceeded with an emergent basis, no any loss would be suffered by the contesting defendants. However, in the final order the said direction does not find mention.

3. The learned counsel submits that the appeal can be worked out by directing the trial Court to decide the suit expeditiously and without being influenced by the observations in the impugned order.

4. Mr. Andhyarujina, learned senior counsel for respondent Nos. 1 to 17/ original plaintiffs submits that he is not averse to the said proposition.

5. Since the trial Court had found it necessary to decide the suit expeditiously and having regard to the nature of the dispute, expeditious adjudication of the suit appears to be necessary and in the interest of justice.

6. Thus the appeal stands disposed with a direction that the trial Court shall decide the Special Civil Suit No. 776 of 2011 as expeditiously as possibly and preferably within a period of eight months from 26th April, 2022, the next scheduled date of hearing before the the trial Court.

7. The trial Court shall not be influenced by the observations made in the impugned order while finally adjudicating the suit.

8. The parties shall cooperate the trial Court in the expeditious disposal of the suit within the aforesaid period.

9. In view of the disposal of the appeal, the Interim Application also stands disposed.

(N. J. JAMADAR, J.)