

5 October 2023.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 1063 OF 2019
WITH
INTERIM APPLICATION NO. 1617 OF 2019**

Amrutlal Shambulal Vora and
anr.

...Petitioners

V/s.

Maharashtra Housing and
Area Development Authority
& anr.

..Respondents

**ALONGWITH
INTERIM APPLICATION NO. 1204 OF 2020
IN
APPEAL FROM ORDER NO. 1063 OF 2019
IN
NOTICE OF MOTION NO. ____ OF 2019
IN
B.C.C.C. S.C. SUIT NO. 2562 OF 2019**

Mrs. Kalpana Narendra Shah

...Applicant

IN THE MATTER BETWEEN :

Amrutlal Shambulal Vora and anr.

....Appellants
Orig. Plaintiffs

V/s.

Maharashtra Housing and Area
Development Authority and anr.

....Respondents

ALONGWITH
INTERIM APPLICATION NO. 4300 OF 2022
IN
APPEAL FROM ORDER NO. 1063 OF 2019
IN
NOTICE OF MOTION NO. ____ OF 2019
IN
B.C.C.C. S.C. SUIT NO. 2562 OF 2019

Rinku Dixit Vora and Ors.

...Applicants

IN THE MATTER BETWEEN :

Amrutlal Shambulal Vora & Anr.

....Appellant

V/s.

MHADA & Anr.

...Respondents

Mr. Vishal Kanade i/by. Mr. Jatin Sheth, for the Appellant.

Mr. Jacob Kadantot for Respondent No.2.

Mr. Amrut M. Vernekar for Applicant in IA-1204-2020.

CORAM : SANDEEP V. MARNE, J.

Dated : 5 October 2023.

P.C. :

1. This Appeal is filed challenging the order dated 1 October 2019 rejecting ad-interim relief in Notice of Motion filed for grant of temporary injunction. This Court, while admitting the Appeal on 25 February 2020 passed the following order :

3) During the pendency of the present Appeal, the respondent No.2 is directed to reserve and keep vacant a tenement admeasuring 400 sq.ft Of carpet area in the new building to be constructed by it and which was to be allotted to the appellants in view of para No.4 of 'Memorandum of Understanding' (MOU) dated 9th April 2014.

The Respondent No.2 is further directed to pay transit accommodation to the appellants as per Clause 8 of the said MOU.

4) Interim Application No.01 of 2020 filed by the Intervenor be heard at the time of final hearing of the Appeal itself.

2. In that view of the matter, instead of determining the correctness of the order dated 1 October 2019 refusing ad-interim relief, it would be appropriate if the Appeal is **disposed of** with a request to the City Civil Court to decide the Notice of Motion for grant of temporary injunction, as expeditiously as possible within a period of four weeks from today. Till the decision of the Notice of Motion for temporary injunction, the interim arrangement directed by this Court vide order dated 25 February 2020, shall continue to operate.

3. Mr. Kanade the learned counsel appearing for the Appellant would submit that in pursuance of the order passed by this Court on 25 February 2020, the Developer has not paid the due transit rent from time to time and there are certain arrears of

transit rent payable by the Developer. The learned counsel appearing for Respondent No.2 would submit that the arrears of transit rent shall be cleared by the Developer within a period of four weeks from today.

4. The learned counsel for the Developer would submit that in pursuance of the order passed by this Court on 25 February 2020, the Developer has reserved tenement admeasuring 400 sq.ft carpet area in the reconstructed building. The Developer to communicate the exact identity of the said reserved tenement to the Appellant as well as the Intervenor.

5. With the above directions, the Appeal is **disposed of**. With disposal of the Appeal, Interim Application No. 1617 of 2019 filed for directions does not survive. The same is disposed of.

Interim Application No. 1204 of 2020 :

1. This Application is filed by applicant-Mrs. Kalpana Narendra Shah seeking intervention in the Appeal. The application is opposed by Mr. Kanade, the learned counsel appearing for the Appellant.

2. Considering the nature of the order that is being passed in the Appeal today, leaving the question as to whether the Applicant is entitled to intervene in the suit filed by the Appellants to be decided by the City Civil Court. The Interim Application stands disposed of with the above directions.

Interim Application (St.) No. 4300 of 2022 :

3. This application is filed to bring on record legal heirs of Appellant No.2. For the reasons stated in the application, the same is allowed. Appellants are permitted to bring on record legal heirs of Appellant No.2. Necessary amendment to be carried out forthwith. Interim Application is disposed of.

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SANDEEP V. MARNE, J.