

Santosh

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

**APPEAL FROM ORDER NO. 340 OF 2023
WITH
INTERIM APPLICATION NO. 4180 OF 2023**

SANTOSH
SUBHASH
KULKARNI

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Date: 2023.05.06
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Madhu Kalicharan Chauhan ...Appellant
Versus
The Chairman/Secretary & ors. ...Respondents

Mr. Ditendra Mishra, for the Appellant.
Ms. Shreya Shah, i/b P. G. Lad, for the Respondent/MHADA.

CORAM: N. J. JAMADAR, J.

DATED : 3rd MAY, 2023

PC:-

1. Heard the learned Counsel for the appellant.
2. The challenge in this appeal is to an order passed by the learned Judge, City Civil Court, in Notice of Motion No.1102/2023 in SC Suit No.717 of 2021.
3. By the impugned order, the learned Judge declined to grant ad-interim relief in terms of prayer Clause (a), whereby the appellant – plaintiff sought to restrain defendant No.3 from creating third party rights in respect of the suit premises which, according to the plaintiff, has been allotted to the plaintiff by MHADA. The learned Judge posted the Notice of Motion to 3rd May, 2023.

4. Since the learned Judge, City Civil Court, having regard to the nature of the case, considered it appropriate to post the Notice of Motion for consideration, without granting an ad-interim relief, at that stage, there does not seem any propriety in entertaining the appeal.
5. Let the Notice of Motion be decided on merits after providing an opportunity of hearing to the parties.
6. In the intervening period, if any third party rights are created, the same would be subject to the further orders, which may be passed, and the outcome of the suit.
7. Appeal stands disposed.
8. In view of the disposal of the appeal, interim application stands disposed.

[N. J. JAMADAR, J.]