

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.571 OF 2023
WITH
INTERIM APPLICATION NO.13569 OF 2023**

Bahinabai Construction ... Appellant
versus
Panvel City Centre Co-op. Hsg. Soc. Ltd.
and Ors. ... Respondents

Mr. Ashutosh M. Kulkarni with Mr. Akshay R. Kulkarni i/by Mr. B.F.Irani, for Appellant.
Mr. Atul G. Damle, Sr Advocate i/by Mr. Rohit Joshi for Respondent Nos.1/1 and 1/2.
Mr. J.M.Joshi for Respondent Nos.8, 17 to 19, 29, 34, 39, 46, 47, 48, 68, 69.
Mr. Vaibhav R. Gaikwad for Respondent.

CORAM: N.J.JAMADAR, J.

DATE : 9 AUGUST 2023

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Appeal is to an order dated 13 June 2023 passed by the learned Joint Civil Judge, Sr. Division, Panvel, on an application to direct the Defendant-Respondent No.1 Society to maintain status quo.
3. Application for temporary injunction (Exhibit 5) preferred by the Appellant-Plaintiff is subjudice. The Court is informed that the pleadings in the said application are incomplete. By the impugned order, while declining to direct the parties to maintain status quo, the learned Civil Judge has directed the Appellant-Plaintiff to effect service on all the Defendants and proceed with the hearing of the

application for temporary injunction (Exhibit 5).

4. Since the challenge in this appeal is against an order passed by the learned Judge declining to direct the parties to maintain status quo, while the application for temporary injunction (Exhibit 5) still awaits adjudication, there is no propriety in entertaining the appeal.

5. The learned Counsel for the Appellant submits that, in the intervening period, further developments have occurred and the Respondent No.1 Society has convened a Special General Body Meeting of the Society to finalize the appointment of the new developer, on 13 August 2023, and, in the event, the resolution to appoint a new developer is passed, the Appellant-Plaintiff would suffer serious prejudice.

6. In the circumstances of the case, it would be appropriate to permit the Respondent No.1 Society to hold Special General Body Meeting as scheduled and transact the business therein as permissible in law.

7. In the event, the Special General Body decides to appoint a new developer, the said decision/resolution may not, however, be given effect to for a period of three weeks.

8. In the meanwhile, the learned Jt. Civil Judge, Sr. Dvn., Panvel, shall make an endeavour to decide the Application (Exhibit 5) for temporary injunction as expeditiously as possible.

9. The parties shall appear before the learned Jt. Civil Judge, Sr. Division,

Panvel on 11 August 2023.

10. The Appeal accordingly stands disposed.
11. The Interim Application also stands disposed.
12. It is hereby made clear that this Court has not entered into the merits of the matter and the application for temporary injunction shall be decided on its own merits and in accordance with law.
13. All concerned shall act on an authenticated copy of this order.

(N.J.JAMADAR, J.)