

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

**APPEAL FROM ORDER NO. 677 OF 2023
WITH
INTERIM APPLICATION NO. 14668 OF 2023**

Ratankunj Tower Co-operative
Housing Society Ltd.

..Appellants/
Orig.Resp.No.1

V/S.

Rakesh Kumar Jain and Ors.

..Respondents

--

Mr. Mayur Khandeparkar a/w. Mr. Chetan Yadav a/w. Ms. Pratibha Tiwari i/by. R.V. & Co. for the Appellant.

Mr. Shardul Singh a/w. Mr. Viraj Parikh, Mr. Karasingh Shekhawat i/by. R.J. Ghag, for the Respondents.

Mrs. Smita Tondwalkar, Advocate for B.M.C.

CORAM : SANDEEP V. MARNE, J.

Dated : 30 August 2023.

P.C. :

1. This Appeal is filed challenging the order dated 18 July 2023 passed by the City Civil Court by which the ad-interim relief is granted in favour of the Plaintiff directing the Appellant/Defendant No.1-Society to maintain status-quo in respect of 22% share of Plaintiff till the next date.

2. Mr. Khandeparkar, the learned Counsel appearing for the Appellant would contend that the suit of the Plaintiff is premised on some internal arrangements between the Plaintiffs under which they are claiming 22% share in the unutilised FSI of the suit property. He would submit that the Society is already armed with deemed conveyance granted by virtue of order dated 12 April 2023. That the Plaintiffs have not challenged the order of deemed conveyance in the suit. He would therefore submit that in the light of the entire property being conveyed in favour of the Society, the City Civil Court could not have restricted the Appellant-Society from developing its own property based on some internal arrangements allegedly entered into by the Plaintiffs.

3. Perusal of the impugned order would show that the Plaintiff-Society was not present when the order was passed on 18 July 2023. The City Civil Court has merely granted ad-interim protection only till the next date of hearing which is scheduled on 2 September 2023. Mr. Khandeparkar, would submit that the Appellant-Defendant would file reply to the Notice of Motion on/ or before 1 September 2023.

4. In that view of the matter, instead of determining the correctness of the order dated 18 July 2023 in the present Appeal, it would be appropriate to request the City Civil Court to decide the Notice of Motion finally in an expeditious manner. The learned Counsel for the Plaintiffs would submit that Rejoinder to the reply

filed by Defendant No.1-Society shall be filed on/or before 11 September 2023. In that view of the matter, the City Civil Court can be requested to decide the Notice of Motion by 15 September 2023.

5. The present Appeal is accordingly **disposed of** with a request to the City Civil Court to decide the Notice of Motion by 15 September 2023.

6. All contentions of the parties are left open. The City Civil Court shall not be influenced by the order dated 18 July 2023 while deciding the Notice of Motion.

7. With disposal of the Appeal, Interim Application No.14668/2023 does not survive. The same is disposed of as having become infructuous.

NEETA
SHAILESH
SAWANT

Digitally signed by
NEETA SHAILESH
SAWANT

Date: 2023.09.01
15:25:19 +0530

SANDEEP V. MARNE, J.