

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.661 OF 2023
WITH
INTERIM APPLICATION NO.14507 OF 2023
IN
APPEAL FROM ORDER NO.661 OF 2023

Shobhana Ochhavlal Kacheria ...Appellant/Applicant
V/S
Mahendra Ochhavlal Kacheria & Anr. ...Respondents

Mr. O.P. Soni for the Appellant/Applicant.
Mr. B.G. Saraf with Ms. Samiksha Gopale for Respondent No.1.
Ms. Indira Labde with Ms. Dimple Jain for Respondent No.2.

...
CORAM: SANDEEP V. MARNE, J.
DATE : DECEMBER 07, 2023.

P.C.:

1 The challenge in the Appeal is to the order dated 15 April 2023 passed by the City Civil Court in refusing to grant *ad-interim* relief in the Notice of Motion tendered by the Appellant/Plaintiff seeking temporary injunction.

2 It is Plaintiff's contention that the suit flat is purchased in the name of Defendant No.1 and that the Plaintiff (who is sister of Defendant No.1), has been residing in the suit flat for several years. It is the case of Defendant No.1 that such occupation of the flat by Plaintiff is on account of gratuitous license/permission granted by the brother-Defendant No.1.

3 It appears that the building is going for redevelopment. Plaintiff's apprehension is that on account of demolition of the building, she would lose possession of the suit flat and she does not have any other accommodation till the building is redeveloped.

4 After hearing the Appeal for some time, the learned Counsels appearing for the Appellant and the Respondents would fairly submit that the Appeal can be disposed of by making the following arrangement:

- i) The transit rent receivable in respect of the suit flat shall be shared equally by Plaintiff and Defendant No.1.
- ii) The Defendant No.1 agrees to pay 50% of the transit rent to the Plaintiff every month.

5 Considering the nature of dispute between the parties as well as the advanced ages of the Plaintiff and Defendant No.1, it is necessary that the suit is decided before construction of the redeveloped building is completed.

6 The City Civil Court is requested to expedite the hearing of the S.C. Suit No.709 of 2023 and to make an endeavour to decide it as expeditiously as possible, preferably within a period of 18 months from today. Parties to co-operate with the City Civil Court for expeditious disposal of the suit.

7 In the event the construction of the building is completed before decision of the suit, the Appellant/Plaintiff shall be at liberty to file an application before the City Civil Court for grant of possession of the permanent alternate accommodation notwithstanding execution of the Permanent Alternate Accommodation Agreement (PAAA) in the name of Defendant No.1.

8 With the above directions, the Appeal is disposed of.

9 In view of the disposal of the Appeal, the Interim Application does not survive and the same is disposed of accordingly.

(SANDEEP V. MARNE, J.)