

Sayali Upasani

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

**APPEAL FROM ORDER NO.900 OF 2022
WITH
INTERIM APPLICATION. NO. 18132 OF 2022**

Mr. Shitlaprasad Ramdewar Yadav And ...Appellants
Another

Vs.

Municipal Corporation Of Greater Mumbai ...Respondents
And Others

Ms. Aditi N. , for Appellants.

Ms. Smita Tondwalkar, for MCGM.

CORAM:- N. J. JAMADAR, J.

DATED:- 15th MARCH, 2023

PC:-

- 1) Heard the learned Counsel for the appellant.
- 2) The challenge in this Appeal is to an order dated 22nd August, 2022, passed by the learned Judge, City Civil Court, Borivali Division, Dindoshi, in Draft Notice of Motion in L.C. Suit No. 1302 of 2022, whereby the learned Judge was persuaded to

grant ad-interim relief in terms of prayer Clause (a) restraining the defendants from creating obstructions, obstacles and hindrance to the repairs/restoration work of the basic amenities i.e. water connection, new water connection, sewerage pipeline, internal road works and/or installation of other amenities being provided by defendant No. 3 on the suit property.

3) Perused the impugned order. The learned Judge, City Civil Court has taken into account the fact that in earlier proceedings, pending between the parties, ad-interim reliefs have been granted.

4) The learned Counsel for the appellants submits that the learned Judge, City Civil Court has not considered the contentions of the defendants - appellants while passing the impugned order.

5) In the context of the nature of the relief granted at an ad-interim stage, in my view, it would be expedient in the interest of justice that the Notice of Motion itself is expeditiously heard and decided.

6) Ad-interim order does not warrant interference at this stage.

7) Hence, the following order.

ORDER

(i) The Appeal stands disposed with a direction to the learned Judge, City Civil Court to hear and decide the Notice of Motion itself for interim reliefs as expeditiously as possible after providing an effective opportunity of hearing to the parties.

(ii) It is hereby made clear that this Court has not delved into the merits of the matter and the learned Judge, City Civil Court shall decide the Notice of Motion on its own merits and in accordance with law.

(iii) In view of disposal of Appeal, the Interim Application also stands disposed.

[N. J. JAMADAR, J.]