

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 871 OF 2023

IN

NOTICE OF MOTION NO. 639 OF 2023

IN

SUIT NO. 399 OF 2023

ALONGWITH

INTERIM APPLICATION NO. 16507 OF 2023

Twinkle Star CHS Ltd.

...Appellant

V/s.

Tricity Realty LLP

...Respondent

Mr. Atharva Dandekar a/w. Ms. Deepa Mani, Ms. Archana Tiwari, for the Appellant.

Mr. Karl Tamboly a/w. Ms. Samiksha Mane i/by. M.M. Legal Associates, for the Respondent.

CORAM : SANDEEP V. MARNE, J.

DATED : 11 DECEMBER 2023.

P.C. :

1. The challenge in the present Appeal is to the Order dated 22 June 2023 passed by the City Civil Court allowing Notice of Motion No. 639 of 2023 in terms of prayer clause (a).

2. After arguing the Appeal for some time, Mr. Dandekar, the learned counsel appearing for the Appellant and Mr. Tamboly, the learned counsel appearing for the Respondent, after taking instructions from their respective clients, would submit that the Appeal can be disposed of without recording reasons by passing the following order :

(i) Within four weeks from today, the Appellant shall refund amount of Rs.65,00,000/- to the Respondent by issuing cheque of amount of Rs.65,00,000/- drawn in the name of the Respondent. Such refund would be without prejudice to rights and contentions of the parties.

(ii) Without prejudice to its rights and contentions, the Appellant shall deposit amount of Rs.40,00,000/- in the City Civil Court. The City Civil Court shall invest the deposited amount in fixed deposit account in the Nationalised Bank.

(iv) Subject to refund of amount of Rs.65,00,000/- and deposit of amount of Rs.40,00,000/- within the time stipulated above, the order of *injunction* granted by the City Civil Court by Order dated 22 June 2023 shall stand vacated and the Appellant-Society shall be at liberty to go ahead with the development of its property subject to rights and contentions of the Respondent.

3. With the above directions, the Writ Petition is **disposed of**. With disposal of the petition, Interim Application does not survive. The same also stands disposed of.

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SANDEEP V. MARNE, J.