

**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

Ms. Samiksha Manek i/by. M.M. Legal Associates, for the Respondent.

CORAM : SANDEEP V. MARNE, J.

Dated : 5 January 2024

P.C. :

1. Office has suo-moto placed the above Appeal on board seeking speaking to minutes of the Order dated 11 December 2023. It is pointed out that para-3 inadvertently mentions as Writ Petition being disposed of when infact it is an Appeal.
2. The said corrections be carried out and the order be read accordingly.

SANDEEP V. MARNE, J.
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V/s.

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...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 Appeal from Order is **disposed of**. With disposal of the petition, Interim Application does not survive. The same also stands disposed of.

SANDEEP V. MARNE, J.

Note : Corrections are carried out in para-3 of the order only, pursuant to speaking to minutes of the order dated 5 January 2024.

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