

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.938 OF 2022**

Mittal Lifestyle Ltd. And Anr. ... Appellants
versus
Bhavana Textile Pvt. Ltd. And Ors. ... Respondents

WITH
INTERIM APPLICATION NO.18594 OF 2022
WITH
INTERIM APPLICATION NO.19546 OF 2022
WITH
INTERIM APPLICATION NO.19545 OF 2022

Mr. Ashok M. Saraogi for Appellants.
Mr. Melvyn Fernandes with Ms. Supriya Majumdar, Mr. Saurabhsai Ganesan i/by
Vaish Associates for Respondent No.1 in AO and IA 18594 of 2022 and for Applicant
in IA 19545 of 2022 and 19546 of 2022.

CORAM: N.J.JAMADAR, J.

DATE : 8 MARCH 2023

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this appeal is to an order dated 17 September 2022 passed by the learned Judge, City Civil Court in Notice of Motion declining to consider the prayer for ad-interim relief, at that stage, and issuing notices to the Respondents/Defendants.
3. On 3 October 2022, when the Appeal along with Interim Application No.18594 of 2022 was listed before the Court, the Court was persuaded to grant ad-interim relief in terms of prayer clause (a) of the Notice of Motion. Paragraph 5 of the

said order which incorporates the said prayer clause reads as under :

“5.In this view of the matter, for a period of seven days from today, there shall be an ad-interim order on the following terms :

The Defendants, their servants, agents or anyone representing them or through them or at their instance are temporarily restrained from defaming the plaintiffs, its officials, staff, employees or their family members either by way of making statement in public or circulating or publishing any imputative or defamatory material either in writing or in oral either on print media, electronic media, social media or any other platform or medium in respect of the subject matter of the present dispute.”

4. The aforesaid ad-interim order has since been continued.
5. Since the trial Court has not considered the matter on merit, it would be expedient to direct the trial Court to hear and decide the Notice of Motion in accordance with law and, in the meanwhile, continue the aforesaid ad-interim order.
6. The learned Counsel for the Respondents submitted that notices on the basis of which the suit is filed by the Appellants/Plaintiffs contain an arbitration clause and the Respondents have, thus, taken out Interim Application No.19546 of 2022 under Section 8 of the Arbitration and Conciliation Act, 1996. The learned Counsel submits that in the event the matter is remanded to the trial Court, the Respondents/Defendants be given liberty to agitate the said issue before the Trial Court.
7. The submission seems impeccable.

8. Hence, the following order :

ORDER

(i) Notice of Motion be heard and decided by the learned Judge, City Civil Court, after providing an effective opportunity of hearing to the parties as expeditiously as possible.

(ii) The Defendants shall be at liberty to raise all the defences which are permissible in law including filing an application under Section 8 of the Arbitration and Conciliation Act, 1996.

(iii) In the meanwhile, ad-interim order passed by this Court (extracted above) shall continue to operate till the hearing and determination of the Notice of Motion.

(iv) It is hereby made clear that this Court has not entered into the merits of the matter and all contentions of all the parties are kept open for consideration.

(v) The Appeal from Order stands disposed.

(vi) All Interim Applications stand disposed.

(N.J.JAMADAR, J.)