

Santosh

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

APPEAL FROM ORDER NO. 236 OF 2023

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KULKARNI

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Date: 2023.04.06
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Hemand Vitthal Ambre & ors.

...Appellants

Versus

Santacruz Laxmi CHS Ltd.

...Respondent

Mr. Rajesh Singh, a/w Ranjan Mishra, for the Appellants.

Ms. Surabhi Agrawal, a/w Deepak Singh, i/b SL Partners, for
the Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 5th APRIL, 2023

PC:-

1. Heard the learned Counsel for the appellant and the learned Counsel for the respondent.

2. This appeal is directed against an order passed by the learned Judge, City Civil Court, on 12th September, 2022, whereby the ad-interim relief claimed by the petitioner in Notice of Motion No.2343 of 2022 came to be rejected.

3. By the said Notice of Motion the plaintiffs – appellants sought to temporarily restrain the defendant from interfering with the right of way and also from restraining the defendant from carrying out any construction so as to block the access. The appellants – plaintiffs claim easementary right of way.

4. The Court is informed that the pleadings in the Notice of Motion are complete and the Notice of Motion is now posted for hearing on 27th June, 2023.

5. Since the appeal is against an ad-interim order which came to be passed on 12th September, 2022, it may be expedient to request the City Civil Court to decide the Notice of Motion itself finally.

6. Hence, the appeal stands disposed with a request to the learned Judge, City Civil Court, to decide Notice of Motion No.2343 of 2022 as expeditiously as possible, preferably within a period of two months from 27th June, 2023.

7. In view of disposal of the appeal, the interim application does not survive and stands disposed.

8. It is clarified that this Court has not entered into the merits of the matter and all contentions of the parties are kept open for consideration before the City Civil Court.

9. The parties are at liberty to file additional documents, if any, on or before 26th June, 2023.

[N. J. JAMADAR, J.]