

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.91 OF 2020
WITH
INTERIM APPLICATION NO.17875 OF 2023
IN
APPEAL FROM ORDER NO.91 OF 2020
WITH
INTERIM APPLICATION NO.3366 OF 2019
IN
APPEAL FROM ORDER NO.91 OF 2020

...

Raman Shamrao Rath & Ors.Appellants/Applicants
V/S

Rath Mansion Co-operative

Housing Society Limited & Ors.Respondents

...

Mr. Sachin Kadam with Mr. Siddharth Khedkar for the
Appellants/Applicants.

Mr. Joyce S. Rath- Appellant/Applicant in person present.

Mr. Rajendra C. Dhuri for Respondent No.3.

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CORAM: SANDEEP V. MARNE, J.

DATE : DECEMBER 13, 2023.

P.C.:

1 The challenge in the present Appeal is to the order dated 4 November 2019 passed by the City Civil Court rejecting Notice of Motion No.256 of 2019 filed by the Plaintiffs for grant of temporary injunction to restrain the Defendants from alienating, creating charge or from executing any agreement of development without the written consent of

the owner of the property. By now it has been more than four years that the Plaintiffs are without any order of temporary injunction. The suit pertains to the year 2017. The suit is already fixed for evidence. In that view of the matter, instead of determining correctness of the order dated 4 November 2019, it would be appropriate that the suit itself is taken up for hearing.

2 The learned Counsel appearing for the Appellants would express an apprehension that the Society is likely to enter into development agreement for redevelopment of the property. Mr. Dhuri, the learned Counsel appearing for Respondent No.3 states that as of now the Society does not appear to have finalized any developer for carrying out redevelopment of the property. If and when the Society decides to undertake redevelopment of the property during pendency of the suit, it would always be open to the Plaintiffs to move an appropriate application before the City Civil Court for necessary orders.

3 The Appeal is accordingly disposed of with a request to the City Civil Court to take up S.C. Suit No.1078 of 2017 for decision in an expeditious manner. The City Civil Court shall make an endeavour to decide the suit preferably within a period of 18 months from today. If the Society takes any decision for carrying out redevelopment of the property during pendency of the suit, it shall be open to the Plaintiffs to file a necessary application before the City Civil Court and seek prohibitory orders in that regard.

4 With the above observations, the Appeal is disposed of.

5 In view of the disposal of the Appeal, both the Interim Applications do not survive and the same are disposed of accordingly.

(SANDEEP V. MARNE, J.)