

HARSHADA H. SAWANT  
(P.A.)

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

**WRIT PETITION NO.9675 OF 2024**

Ganpati Panchayatan Sansthan Trust

.. Petitioner

**Versus**

M/s. Ambai Developers and Ors.

.. Respondents

.....

- Mr. Shekhar Jagtap i./by Mr. Ranjeet Nimbalkar, Advocate for Petitioner.

.....

**CORAM : MILIND N. JADHAV, J.**

**DATE : AUGUST 08, 2024**

**P.C.:**

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Jagtap, learned Advocate for Petitioner.
- 3.** Perused the praecipe dated 08.08.2024 and the Writ Petition.
- 4.** By virtue of the impugned order dated 10.05.2024 passed below Exhibit-281 in Special Civil Suit No.104 of 2015, the same stands allowed. The order is appended at Exhibit-N, page No.192 of the Writ Petition and is impugned and is taken exception to by Plaintiff.
- 5.** Precursor to the above order are certain proceedings and more specifically an order dated 06.10.2018 passed below Exhibit-08 in Special Civil Suit No.104 of 2015 under Order XXXVIII Rule 5 of the Civil Procedure Code, 1908 (for short '**CPC**') which require Defendants

to deposit security of Rs.8 Crores. There was dereliction on part of Defendants in doing so. Resultantly, the Defendants filed twin Applications below Exhibits-234 and 246 seeking a direction from the Court to allow the Defendants to deposit the said security alongwith a Valuation Report. However those twin Applications were objected to by Plaintiff and still remain undecided.

**6.** It is grievance of Plaintiff that unless and until the applications and objections raised by Plaintiff are decided, the Defendants could have not filed a fresh application which they did so by filing an Application below Exhibit-281.

**7.** One of the reasons which compels me to stay the impugned order is the fact that despite the aforesaid timeline and history in the matter as also objections filed by Plaintiff to the twin applications filed below Exhibits-234 and 246, the impugned order is passed below Exhibit-281 without giving any reasons whatsoever.

**8.** *Prima facie* in that view of the matter, I am inclined to stay the order and issue notice to the Respondents as to how the said order can be sustained. Hence, the impugned order stands stayed.

**9.** Considering that the Defendant Nos.1 to 4 are the principal contesting Respondents who have filed the application below Exhibit-281, issue notice to the Respondent Nos.1 to 4. Humdast permitted. In addition to Court's notice, Petitioner is directed to serve the

Respondents a copy of this order and copy of the Writ Petition within a period of one week from today and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof. Respondents are directed to enter their appearance and file Affidavit-in-Reply to the Writ Petition on or before the next date.

**10.** Learned Trial Court is directed by this Court to stay and defer the proceedings before itself until the present Writ Petition is determined.

**11.** Stand over to **22<sup>nd</sup> August, 2024.**

H. H. SAWANT

[ MILIND N. JADHAV, J. ]

HARSHADA  
HANUMANT  
SAWANT  
Digitally signed  
by HARSHADA  
HANUMANT  
SAWANT  
Date: 2024.08.08  
18:09:26 +0530