

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

INTERIM APPLICATION NO.6334 OF 2024

IN

SECOND APPEAL NO.156 OF 2022

Kaivalya Dham

through Chairman

Shri Swami Maheshchandaji

....Appellant/Applicant

V/S

Ranjankar Gramastha Mandal

its Panchas

....Respondents

Mr. Nishant Sasidharan a/w Ms. Sneha Patil and Ms.Vrinda Samdani
i/b M/s. Maniar Srivastawa Associates *for the Appellant/Applicant.*

Mr. Shirish Pitre a/w Mr. Amol Ghuge *for Respondents.*

CORAM: SANDEEP V. MARNE, J.

DATE : 11 MARCH 2024.

P.C.:

1 The Application is filed seeking stay of the decree dated 13 September 2017 passed by the First Appellate Court during pendency of the Appeal, which is already admitted by formulating substantial questions of law by order dated 20 February 2024.

2 Heard Mr. Sasidharan, the learned counsel appearing for the Appellant and Mr. Pitre, the learned counsel appearing for the Respondents.

3 It appears that there are three parties, who claim possession in respect of the suit property. Appellant is held to be the owner of the suit property. The Respondents essentially represent Ranjankar Gramastha Mandal. The five Respondents are panchas of said Ranjankar Gramastha Mandal. They also claim possession in respect of the suit property. It appears that as of now there are total 11 houses constructed on the suit property, which are occupied by 11 different occupants. The Respondent-Ranjankar Gramastha Mandal in fact represents the said occupiers of 11 houses. So far as construction and occupation of 11 houses are concerned, the Appellant has already instituted Regular Civil Suit No.6 of 2014 before the Civil Judge Senior Division, Alibag seeking recovery of possession from said 11 occupiers. In that suit, the Respondent-Ranjankar Gramastha Mandal alongwith its four Panchas are also impleaded as Defendant Nos.1 to 4. However the prayer of recovery of possession is restricted only against Defendant Nos.5 to 24 therein who are allegedly occupying the 11 houses constructed on suit property. Therefore so far as recovery of possession from the occupiers of the said 11 houses is concerned, the said issue would be decided in Regular Civil Suit No.6 of 2014.

4 As observed above, the possession of the suit property claimed by Respondent herein is essentially on behalf of the villagers. Admittedly, the Respondent or its panchas do not reside in any of the houses constructed on the suit property. Respondent is merely an association of villagers. It is possibly formed with the objective of representing interest of the villagers. *Prima facie* therefore it can be inferred that the interest of the Respondent-association is to protect the occupation of the occupiers who are residing in the 11 houses. The rights and entitlements of such occupiers to continue to occupy possession of the houses would ultimately be decided in Regular Civil Suit No.6 of 2014. In that view of the matter, there is no question of Respondent-Association continuing to occupy the suit property independent of such occupation by the occupiers of 11 houses.

5 I am therefore of the view that the injunction granted by the First Appellate Court restraining the Appellant from obstructing or interfering possession of the Respondents in respect of remaining suit property excluding the 11 houses is required to be stayed during pendency of the Appeal.

6 Accordingly, during pendency of the Appeal, direction No.2B of the decree dated 13 September 2017 passed by the First Appellate Court shall remain stayed. Such stay however shall not come in the way of Civil Judge Senior Division, Alibag from deciding Regular Civil Suit

No.6 of 2014 on its own merits and this order shall not be construed to mean as if the Appellant is permitted to obstruct possession of the occupiers of the 11 houses.

7 With the above directions, the Interim Application is disposed of.

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(SANDEEP V. MARNE, J.)