

Vinaa Khadpe
(P.S.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15979 OF 2023

Bharat Lallu Bhai Jani & ors

.. Petitioners

Versus

The State of Maharashtra and ors

.. Respondents

WITH

INTERIM APPLICATION (ST) NO.505 OF 2024

IN

WRIT PETITION NO.15979 OF 2023

M/s. Varad Vaastu Enterprises

.. Applicant

In the matter between

Bharat Lallu Bhai Jani & ors

.. Petitioners

Versus

The State of Maharashtra and ors

.. Respondents

.....

- Ms. Medha Jondhale for the Petitioners.
- Mr. Sanjiv Sawant a/w. Mr. Abhishek Deshmukh, Ms. Bhakti Wast for the Respondent No.2 / Applicant in IA/ST/505/2024.
- Ms. Priyanka Bhadrashete for the Respondent No.4.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 5, 2024

P.C.:

- 1.** Not on Board. Mentioned. Taken on Board.
- 2.** In this Writ Petition, ad-interim relief was granted on 20 December 2023, *inter alia*, granting stay to Order dated 14 December 2023 passed by the City Civil Court in Notice of Motion No.4002 of 2023. Admittedly, the stay order is an ad-interim order.
- 3.** The stay order was uploaded on 20 December 2023.

Petitioners filed the present Writ Petition on 20 December 2023 when the aforementioned order dated 20 December 2023 came to be passed.

4. Mr. Sawant appears for private Respondent in the present Writ Petition. He has filed Interim Application seeking vacating of Order 20 December 2023 and in the praecipe, moved by him, certain reasons have been stated therefor.

5. However, at the outset, Mr. Sawant would submit that under the provisions of Order 43 of the Civil Procedure Code, 1908, against the ad-interim order passed by the City Civil Court in the Notice of Motion No.4002 of 2023, an Appeal from Order is maintainable and not a Writ Petition. Mr. Sawant has fairly submitted that even if the present Writ Petition has is permitted to be converted into an Appeal from Order, he would have no objection.

6. Office is directed to examine whether Appeal from Order is maintainable against the impugned order or whether the present Writ petition has been filed correctly. Office shall place a report before this Court on **10 January 2024**.

7. In the meanwhile, ad-interim order dated 20 December 2023 shall continue to hold field.

8. After perusal of the impugned order, I have impressed upon

Mr. Sawant that considering the nature and manner in which the ad-interim order dated 14 December 2023 has been passed without giving an opportunity of representation to the Petitioners, it would be trite to direct hearing of the Notice of Motion No.4002 of 2023 for interim relief and in that regard appropriate instructions be obtained and informed to the Court on the next adjourned date if the present Writ Petition is maintainable.

9. Today, no order is passed on Interim Application filed by Respondent No.2.

10. Stand over to 10 January 2024 for directions.

Vinaa Khadpe

[MILIND N. JADHAV, J.]

Digitally
signed by
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KHADPE
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