

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.17621 OF 2024

SATISH
RAMCHANDRA
SANGAR

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SATISH RAMCHANDRA
SANGAR
Date: 2024.12.11
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Suresh Shankar Mhatre

Age : 75 Years, Occupation : Business,
Residing at : Bankode Village,
Koparkhairane, Taluka and District:-
Thane.

...Petitioner

Versus

1. **Bhagwan Shivram Mhatre**
Age : 80 Years, Occupation : Nil,
Residing at : Khairane Village,
Near Vitthal Rukhmai Mandir,
Sector-12, Koparkhairane,
Navi Mumbai : 400 709.
2. **City & Industrial Development**
Corporation (CIDCO),
CIDCO Bhavan, CBD Belapur,
Navi Mumbai : 400 706.
3. **Navi Mumbai Municipal Corporation**
Head Office : Plot No.1 and 2,
Govardhan Chowk, Sector – 15A,
Belapur, Navi Mumbai : 400 706.
4. **The Ward Officer**
Koparkhairane, Navi Mumbai
Municipal Corporation, Koparkhairane,
Navi Mumbai.

...Respondents

Dr.Uday Warunjikar i/b. Mr.Rohan Barge a/w Mr.Anilkumar Bagal:-	Advocates for Petitioner.
Mr.Bhagwan Shivram Mhatre:-	Respondent No.1 in person present.

CORAM : S. M. MODAK, J.

DATE : 10th DECEMBER 2024

P. C. :-

1. Heard learned Advocate Dr.Warunjikar for the Petitioner-Plaintiff.

2. Gone through the papers. It is true, during pendency of suit for injunction, there was an Application filed for grant of temporary injunction. It was allowed by the trial Court – Joint Civil Judge, Senior Division, Belapur – Navi Mumbai on 4th May 2023. (Page No.110). The Defendant No.1 was restrained from carrying out construction over the suit property till final decision of the suit. This order was passed after hearing both the sides. There is an Appeal filed and it is pending before the District Court – Thane. Yet, it is to be decided.

3. In the meantime, the trial Court has framed issues and the suit came for hearing and it was dismissed on **21st September 2024 for non appearance of the Plaintiff and his Advocate.** It is on Page No.29. After getting knowledge, the Plaintiff filed Civil Misc. Application for restoration. It is on Page No.31. There was also delay. (Page No.41). During pendency of that Misc. Application, the Plaintiff-Applicant-Petitioner filed an Application for grant of ad-interim status-quo. It is

dated 27th November 2024. (Page No.26).

4. It is true that when that Application for status-quo was filed, at that time, the original suit was not restored. When the status-quo Application was filed, there were two options available before the trial Court. First one, to hear the parties and decide the Application for status-quo. Another is, by giving reasons to hear it along with restoration Application and condonation Application. **The trial Court instead, dismissed the Application as not maintainable.** This approach is very rigid approach and it cannot be sustained in the eyes of law. The trial Court ought to have decided the Application for status-quo on its own merits instead of rejecting it as not maintainable.

5. The Respondent No.1-Defendant No.1 is present. They want time to engage an Advocate. They are seeking two (2) weeks time. I am not inclined to keep this Petition pending and give them time to engage an Advocate. Considering the pendency, one does not know when this Writ Petition will come up for hearing. The contention is, the Defendant No.1 is going on with the construction and the rights of the Petitioner are jeopardized in view of such order. Considering the circumstances, I am inclined to set aside the said order. However, I am not making any comment about the entitlement to have status-quo. It

can be decided by the trial Court after hearing both the sides. In view of such order, I do not think that the right of Defendant No.1 to oppose it is affected. In fact, the impugned order is opposed in view of rigid approach taken by the trial Court. Hence, I have taken this view. Hence, following order is passed:-

ORDER

- (i) The order dated 27th November 2024 passed by the Civil Judge, Junior Division – Belapur is set aside.
 - (ii) The trial Court is directed to hear the Application for grant of status-quo after hearing both the sides on merits.
 - (iii) Both the parties are directed to appear before the trial Court on 12th December 2024.
 - (iv) The Respondent No.1 – Defendant No.1 is present. He is apprised about this order and appearance before the trial Court.
 - (v) The trial Court to decide that Application as early as possible, preferably on the same date.
6. In view thereof, the **Writ Petition stands disposed of.**
7. Parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]