IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 860 OF 2024
WITH
INTERIM APPLICATION NO. 15274 OF 2024

Worli Urban Development Project LLP (formerly Known As M/s. Lokhandwala DB Realty LLP) ...Appellant

Versus

Haidar Ali Maqbul Idrisi Thr. CA Vahid Ali Makbul Ahmed Idrisi And Others ...Respondents

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SNEHA NITIN CHAVAN
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Date: 2024.12.04 19:24:55 +0530

Mr. Mayur Khandeparkar a/w Rutuja Patil and Hasan Mushabber i/b Negandhi Shah and Himayatullah for the Appellant.
Mr. Hemant Ghadigaonkar a/w Ms. Sana Subedar and Mr. Rajgopal Swami for Respondent Nos. 1 to 35.
Mr. Vishwanath Patil a/w Akshay Naidu for Respondent No.37/SRA.

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CORAM : M.M. SATHAYE, J.
DATE : 4th DECEMBER 2024

P.C. :

1. Heard learned counsel for the Appellant (original Defendant No.4), learned counsel for Respondent Nos. 1 to 35 (original Plaintiffs) and learned counsel for Respondent No.37 (SRA).

2. The Appeal is filed against impugned order dated 30.10.2024 passed by the Bombay City Civil Court at Bombay on draft notice of motion in L.C.Suit (St) No. 19226 of 2024, by which ad-interim protection is granted to Respondent Nos. 1 to 35, restraining the present Appellant/developer from demolishing the subject matter premises, till filing of say.

3. Learned counsel for the Appellant, at the outset, submitted that the jurisdiction of the Civil Court is barred under Section 42 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 and he submitted that in the reply filed by the Appellant to the motion, the said plea is specifically already raised in paragraph 3. Inviting this Court's attention to the prayers made in the plaint by Respondent Nos. 1 to 35, learned counsel for the Appellant submitted that the prayers clearly indicate that the jurisdiction of the Civil Court is barred. He submits that any continuation of the ad-interim protection is most likely to affect the SRA project undertaken by the Appellant which is involving as many as 3241 consenting slum dwellers, who have already vacated the site and which jointly constitute 80.44% of the consent achieved, amongst occupants of 4 slums viz. Veer Jijamata Nagar, Mata Ramabai Ambedkar Nagar, Swami Vivekanand Nagar and Jivan Jyot Nagar. He contends that the jurisdiction of the Civil Court is at the root of the controversy and if the Trial Court continues ad-interim without taking decision on the said issue, one way or the other, it is most likely to perpetuate delay in the scheme.

4. Mr. Ghadigaonkar, learned counsel for Respondent Nos. 1 to 35, on the other hand, submits that roznama of the Trial Court would show that the motion is already posted on 09.12.2024 for filing rejoinder of the Plaintiffs to the reply filed by the present Appellant. He submits that the issue of jurisdiction is not yet considered by the Trial Court and therefore it may not be considered directly in High Court for the first time and it has to be argued before the Trial Court, giving sufficient opportunity to Plaintiffs.

5. Considering the aforesaid submissions and keeping in view

the number of slum dwellers, who have already vacated and consented for development through SRA project, it is necessary that the Trial Court decides the issue of jurisdiction first, and even for the purpose of continuation of the ad-interim relief which is granted. Needless to mention that the matter is at ad-interim stage and the motion is pending.

6. In that view of the matter, this **Appeal from Order and pending application are disposed of** by passing following order.

(i) Respondent Nos. 1 to 35 will file their rejoinder on 09.12.2024.

(ii) Pending motion will thereafter be taken up by the Trial Court for the purpose of deciding the issue of jurisdiction of the Civil Court and depending on the outcome of the said issue, the Court will decide about the continuation of the ad-interim relief.

(iii) The motion may be taken up, for hearing on the issue of jurisdiction as expeditiously as possible and preferably within a period of 2 weeks after 09.12.2024.

(iv) It is clarified that this Court has not considered the merits of the motion including the issue of jurisdiction and all contentions of both the parties are kept open in that regard.

7. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)