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

**APPEAL FROM ORDER (ST) NO. 1693 OF 2024
WITH
INTERIM APPLICATION (ST) NO. 1696 OF 2024
IN
APPEAL FROM ORDER (ST) NO. 1693 OF 2024**

Balu @ Balasaheb Baburao Jadhav and Ors. .. Appellants
Versus
M/s. Adhya Properties Limited and Ors. .. Respondents

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- Mr. Prathmesh T. Bhanuwanshe, Advocate i/by Mr. Sanjay P. Shinde for Appellants.

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CORAM : MILIND N. JADHAV, J.
DATE : DECEMBER 17, 2024.

P.C.:

- 1.** Not on Board. Mentioned. Taken on Board.
- 2.** Heard Mr. Bhanuwanshe, learned Advocate for Appellants.
- 3.** Today, after allowing Interim Application (St.) No.1695 of 2024, present Appeal From Order is taken up immediately for admission.
- 4.** Present Appeal From Order is directed against rejection of Exhibit “5” injunction order passed in Special Civil Suit No.989 of 2023 by the learned Civil Judge Senior Division, Pune.
- 5.** Appellants are the owners of the property. They entered into the Development Agreement dated 02.05.2013 and also executed a General Power of Attorney in favour of Respondent – Developer to develop the Suit property.

6. In view of the impugned order dated 08.08.2023 appended at Exhibit “A” – page No.16 of the Appeal *prima facie* it is seen that there was a condition in the Development Agreement of dividing the constructed area between the parties. The construction of building Nos. A and B is already over whereas construction of building Nos.C, D and E is presently not yet commenced. Grievance of the Plaintiffs is that they have not been handed over the promised return of developed property.

7. The impugned order is decided on the basis of balance convenience between the parties and it also records that some of the construction of the flats infact handed over to the Plaintiffs.

8. The impugned order proceeds on the premise that permission for remaining construction of property have been obtained by Respondent and therefore injunction has been refused.

9. In view of the above, unless I hear the Respondents who are Defendants in the Suit proceedings, no further order cannot be passed as the ongoing construction / development will be affected.

10. Hence, issue notice to Respondents. Humdast permitted.

11. In addition to Court notice, Appellants are permitted to serve a copy of the Appeal From Order and this order on the Respondents 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 on or before the next date.

12. After receiving notice, Respondents are directed to file their Affidavit-in-Reply on or before the next date, if so desired.

13. Respondents are directed to remain present in Court on the next adjourned date either by themselves or through Advocate.

14. List the Appeal From Order and Interim Application on Board on **28th January 2025**.

[MILIND N. JADHAV, J.]

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