

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 9106 OF 2024
IN
APPEAL FROM ORDER NO. 459 OF 2023

Vijay Naval Chauhan

...Applicant

Versus

M/s. AMI Housing Ltd. And Ors.

...Respondents

Mr. M.V. Holamagi for the Applicant.

Mr. Sanjiv Sawant i/b H. Kadam a/w Samiksha Mane and Bhavan
Umredkar for the Respondent No.1.

Mr. R. Y. Sirsikar for Respondent Nos. 2 and 3/Corporation.

SNEHA
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CORAM : M.M. SATHAYE, J.

DATE : 28 MAY 2024

(VACATION COURT)

P.C. :

1. By this application, the Applicant (original Respondent No.1
Vijay Naval Chauhan) is seeking review of the Order dated
10.05.2024 passed in Appeal From Order No. 459 of 2023
(Coram : R. N. Laddha J) and to review and reconsider the matter
(for short 'the said Order')

2. To err on safer side, prayer clause (a) of the application is
reproduced below:

*“(a) that this Hon’ble Court be pleased to reconsider the
order dated 10th May 2024 passed in Appeal from Order*

No. 459 of 2023 be recalled and set aside and reviewed and pass such orders and directions as deems fit and proper.”

3. From the aforesaid prayer, it is clear that the application will have to be heard by same brother Judge who has passed the said Order.

4. Mr. Holamagi, the learned counsel for the Applicant submits that he wishes to challenge the said Order in the Hon’ble Supreme Court and till that time, he is seeking interim protection because according to him the effect of the said Order will be that the Municipal Corporation will demolish the subject matter structure.

5. Mr. Sawant, the learned counsel appearing for the original Appellant (M/s. AMI Housing Ltd) points out from paragraph 10 of the said Order, that the structure in question was already demolished on 28.08.2019 after the Trial Court refused ad-interim relief and according to him, it was illegally re-constructed. This position is disputed by the learned counsel for the Applicant. Be that as it may.

6. Considering the aforesaid circumstances and the fact that the said Order was passed after hearing the parties, including the Applicant, this Court is of the view that no interim relief can be granted at this stage pending the application, and whatever order that can be passed, can be passed by the learned brother Judge, who has originally passed the said Order.

7. Only because the matter is pressed in vacation, when the said Judge is not unavailable, this Court is required to pass the present order.
8. The parties are at liberty to move the Registry to get the matter placed before the same Judge, who has passed the said Order.
9. Stand over to 10.06.2024.
10. All concerned to act on duly authenticated/digitally signed copy of this order.

(M.M. SATHAYE, J.)