

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 412 OF 2024
WITH
INTERIM APPLICATION NO. 9243 OF 2024

Dr. Ganesh Ramchandra Mane And Another ...Appellants
Versus
M/s. Bhawani Construction Company And
Others ...Respondents

Mr. Pradeep Thorat a/w Ms. Megha Shigavan i/b. Mr. Mohit Jadhav,
for the Appellants.
Mr. Alok Mishra i/b. Mr. Virendra J. Tiwari, for Respondent Nos. 3
&4.

CORAM : M.M. SATHAYE, J.

DATE : 18th DECEMBER, 2024

P.C. :

1. Heard learned counsel for parties.
2. The appeal is filed challenging the Order dated 16.05.2024 passed by City Civil Court, Greater Bombay in Draft Motion in S.C. Suit (St.) No. 11209 of 2024. By the impugned order, ad-interim relief is declined.
3. Perusal of the impugned Order shows that the ad-interim relief was pressed for restraining Respondent Nos.1 to 4 from handing over possession of the suit premises to Respondent Nos.5 & 6.
4. Learned counsel for the Appellants submitted that his claim is based on series of Memorandum of Understandings (MoUs) including last MoU dated 16.01.2014 which was for sale of suit

premises described as 'nursing home premises'. He submits that the Appellants have paid Rs.92,50,000/- so far under the said transaction. Already, it is recorded in the earlier Order dated 16.12.2024 that the Appellants are ready to amend the plaint for seeking specific performance of the contract between the parties.

5. In such situation, it was pointed out that in breach of the Order dated 23.10.2018 passed by the Nation Consumer Disputes Redressal Commission at New Delhi, Respondent Nos. 3 & 4 have executed agreement for sale dated 03.11.2022 in favour of Respondent Nos. 5 & 6. He points out that Respondent Nos.3 & 4 were duly served when the said order dated 23.10.2018 granting injunction was passed.

6. Learned counsel for Respondent Nos. 3 & 4 on instructions, submits that since the matter is at ad-interim stage and since Respondent No.3 & 4 have already filed reply and written statement to the motion and suit, after the impugned Order is passed, instead of entering into the dispute on merits in this Court at ad-interim stage, a statement can be made that Respondent Nos. 3 & 4 will not hand over the possession of the suit premises in favour of Respondent Nos. 5 & 6 for a limited period of 4 weeks.

7. It is informed to the Court that the next date in the Trial Court is 06.02.2025. Considering the said date and overall facts and circumstances in the matter and the stage at which parties stand in the suit (ad-interim), I find it appropriate to dispose of this matter, by passing following order.

- (A) The Trial Court will decide the motion on its own merits, in accordance with law, without being influenced by any observations in the impugned Order or the present Order. Rival contentions of the parties are kept open.
 - (B) Respondent Nos. 3 & 4 are directed not to part with the possession in favour of Respondent Nos. 5 & 6 for a period of 8 weeks from today. The Appellants are at liberty to seek further extension, if needed, from the Trial Court, on which the Trial Court is at liberty to pass appropriate orders.
 - (C) The Appellants have assured the Court that they will proceed with the motion on merits without seeking unnecessary adjournments.
 - (D) Needless to mention that if the amendment application for adding the prayer of specific performance is filed, the same shall also be decided on its own merits and in accordance with law. Rival contentions of the parties in that regard, are also kept open.
8. Appeal from Order and pending interim application **are disposed of** in above terms.
9. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)