

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 670 OF 2024
WITH
INTERIM APPLICATION NO. 13277 OF 2024

Aziz-ur-Rahman and Anr.Appellants
V/S
Darul Faiz Co-operative Housing Society Ltd.
Through Secretary Mohammed Masood Ansari & Ors.Respondents

Mr. Vishal Kanade a/w Mr. Dhishan Kukreja, Mr. Mohan Salian & Ms.
Harshita Kotian i/b MGS Legal for Appellants.
Mr. Rupesh Dubey i/b Ms Nilu Mishra for Respondent No. 1.
Mr. Satyajee P. Dighe for Respondent No.3/MHADA.

CORAM : M.M. SATHAYE, J.

DATE : 26th NOVEMBER, 2024

P.C. :

1. Heard learned counsel for the Appellants (Defendant Nos. 1 & 2 - Landlord & Developer), learned counsel for Respondent No.1 Society-Plaintiff as well as learned counsel for Respondent No.3/MHADA.
2. This appeal challenges grant of ad-interim relief dated 04.06.2024 restraining the Appellants or anybody claiming through them from carrying out any further construction on 4th & 5th floor podium and 17th Floor reserved/earmarked for Fitness Centre of the subject matter building.

3. It is admitted position that motion is pending for hearing and the parties are at ad-interim stage.
4. Learned counsel for the Appellants, at the outset submits that considering that impugned Order is passed in June 2024 and the motion is still pending in the Trial Court, this Appeal can be disposed of by directing that the motion be heard on its own merits without being influenced by observations in the impugned order and preferably within a time limit. Learned counsel for the Respondent-Society does not oppose this prayer.
5. The Court is informed that Respondent Municipal Corporation is yet to file its reply to the motion.
6. In the aforesaid facts and circumstances, above Appeal from Order and pending interim application, **are disposed of** by passing following order.

(A) The Trial Court is directed to decide the subject Notice of Motion No. 2114 of 2024 on its own merits in accordance with law, without being influenced by the observations in the impugned order. Rival contentions of all the parties are kept open.

(B) Considering the nature of dispute, the Trial Court is directed to decide the motion as expeditiously as possible, preferably within a period of 3 months after completion of the pleadings.

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

(M.M. SATHAYE, J.)