

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

**APPEAL FROM ORDER NO.701 OF 2024
WITH
INTERIM APPLICATION NO.13632 OF 2024**

Sagar Vinod Panchamia & Anr. ...Appellants
vs.
Municipal Corporation of Greater Mumbai ...Respondent

Mr. R. A. Thorat, Senior Advocate i/b Mr. Prashant P. Surve for the Appellants.

Ms. Seena Rawade for the Respondent-Corporation.

CORAM : SHYAM C. CHANDAK, J.

DATED : 8th OCTOBER, 2024

P. C. :

. Heard. Perused the record.

2) Learned Senior Advocate Mr.Thorat for the Appellants states that, Notice of Motion No.3396 of 2023 in L.C.Suit No.2103 of 2023 has been rejected only on account of not enclosing the notice and the speaking order, in respect of Suit Premises No.C-2. There is no other reason for rejecting the Notice of Motion. He submits that, now, the Appellants have filed an Interim Application/Chamber Summons seeking for permission to enclose the said document/s in the suit and based on that, the Appellants

propose to press for injunction in said Notice of Motion, if the impugned Order is set aside.

3) In paragraph 24 of the impugned Order, the trial Court noted that, in the present case, the Plaintiff has not placed copy of notice dated 19/01/2023 alongwith relevant speaking order dated 23/08/2023 in respect of suit premises i.e. Premises No.C-2. Notice placed on record is belonging to the premises No.C-1. It is observed that, it is settled principle of law that when the document in support of the claim are not supporting to the averments in plaint specially in respect of suit premises, equitable relief of injunction cannot be granted. In absence of notice and speaking order in respect of suit premises No.C-2, blanket injunction cannot be granted. Accordingly, prima facie case, balance of convenience does not lies in favour of Plaintiff. In effect question of causing irreparable loss to the Plaintiff does not arise. Hence, the injunction has been refused.

4) Now, an Interim Application/Chamber Summons has been filed by the Appellants seeking for permission to enclose certain documents. Said Application is yet not decided by the trial Court. If said Application is allowed, the Appellants can again file a fresh Notice of Motion and press for the injunction, pointing relevance of the said documents.

5) In view thereof, the Appeal is liable to be disposed of, accordingly. Hence, following Order.

ORDER

(i) In the event the Interim Application/Chamber Summons seeking permission to enclose documents is allowed by the trial Court, the Appellants are at liberty to file a fresh Notice of Motion for the necessary relief.

(ii) If such Notice of Motion is filed, the same shall be heard and adjudicated on its own merits without being influenced by the observations of this Court, in this Order.

(iii) Appeal stands disposed of, with aforesaid liberty.

(iv) Consequently, Interim Application No.13632 of 2024 does not survive and it stands disposed of.

[SHYAM C. CHANDAK, J.]