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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 592 OF 2013
WITH
INTERIM APPLICATION NO. 610 OF 2023
WITH
CIVIL APPLICATION NO. 1124 OF 2013
WITH
INTERIM APPLICATION NO. 15303 OF 2024
WITH
INTERIM APPLICATION NO. 15305 OF 2024
WITH
INTERIM APPLICATION NO. 15301 OF 2024
WITH
INTERIM APPLICATION NO. 15304 OF 2024
WITH
INTERIM APPLICATION NO. 15463 OF 2024
WITH
INTERIM APPLICATION NO. 15462 OF 2024
WITH
CIVIL APPLICATION NO. 1294 OF 2014
IN
SECOND APPEAL NO. 592 OF 2013**

Vikrant Happy Homes Pvt Ltd ... Appellant/Applicant

vs.

Shri Gopal Baburao and Ors ... Respondents

Mr. N.R. Bandiwadekar, Sr. Advocate a/w. Mr. Abhishek Deshmukh

and Ms. Bhakti Wast i/b. Mr. Sanjiv Sawant, for Appellant/Applicant.
Mr. Prakash Mahadik for Applicant in IA/610/23.
Mr. R.D. Soni a/w. Mr. V.R. Kasle i/b. Ram and Co., for Respondent
Nos. 3 to 7, 4A to 4D, 5 to 7, 10 to 13.

CORAM : GAURI GODSE, J.

DATED : 13th DECEMBER 2024

ORDER:

1. Learned senior counsel for the appellant(original plaintiff) on instructions seeks leave to withdraw the Regular Civil Suit No. 375 of 1997 with liberty to agitate the appellant's grievance in the pending Regular Civil Suit No. 323 of 2013. A copy of the resolution on behalf of the appellant tendered by the learned senior counsel for the appellant is taken on record.
2. Learned counsel appearing for respondent nos. 1 to 13(defendant nos. 1 to 13) on instructions of defendant nos. 1 to 13, including heirs and legal representative of deceased defendant nos. 1, 2, 4, 8 and 9 seeks leave to withdraw the counter claim filed by them in the Regular Civil Suit No. 375 of 1997 with liberty to agitate their contentions in the pending Regular Civil Suit No. 323 of 2013.
3. Leave to withdraw is granted with liberty as prayed, to the appellant and defendant nos. 1 to 13.
4. In view of withdrawal of the suit and the counter claim the

impugned judgments and decrees are set aside. The second appeal is disposed of in the above terms.

5. In view of disposal of the second appeal, all pending applications are disposed of as infructuous.

6. It is clarified that this court has not examined the rival contentions of the parties on merits and all contentions of all the parties are kept open.

7. Learned senior counsel for the appellant seeks extension of ad-interim order directing parties to maintain status quo passed by this court on 12th August 2013 for a period of four weeks, to enable the appellant to make an appropriate application for interim relief in the pending Regular Civil Suit No. 323 of 2013. Learned counsel for respondent nos. 1 to 13 opposes the request on the ground that the respondent nos. 1 to 13 had already suffered hardship due to continuation of order of status quo since 2013. He submits that if ad-interim relief is extended, the respondent nos. 1 to 13's right to oppose grant of any interim relief in Regular Civil Suit No. 323 of 2013 be kept open.

8. To enable the appellant to make an appropriate application for interim relief in Regular Civil Suit No. 323 of 2013, the order passed by this court on 12th August 2013, directing the parties to maintain

status quo is continued for a period of four weeks from today.

9. It is clarified that this court has not examined the merits for extension of ad-interim protection.

10. Respondent nos. 1 to 3 are at liberty to oppose to grant any interim protection in Regular Civil Suit No. 323 of 2013.

11. If any application for interim relief in the said suit is filed by the appellant, the concerned trial court shall decide the said application on its own merits and uninfluenced by the ad-interim protection granted by this court and extended by this order.

12. All rival contentions of all parties on interim relief are kept open.

(GAURI GODSE, J.)