

Jvs.

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

COMMERCIAL APPEAL FROM ORDER NO. 2 OF 2024

A. V. Contractors and Engineers	}	
Private Limited	}	Appellant
versus		
Onearth Creators LLP & Ors.	}	Respondents

Ms. Geetanjali Datta with Ms. Shweta R. Rathod
i/b. Elixir Legal Services for appellant.

**CORAM: ALOK ARADHE, CJ. &
M. S. KARNIK, J.**

DATE: MARCH 28, 2025

ORDER: (Per M. S. Karnik, J.)

- 1.** Heard learned counsel for the appellant.
- 2.** The present commercial appeal is preferred against the order dated 16th September 2023 passed by the District Court, Panvel-Raigad dismissing the application Exhibit-15 filed on behalf of the appellant/original plaintiff.
- 3.** Briefly stated, the commercial suit is filed by the appellant/plaintiff for recovery of the sum of Rs.10,04,06,149/- with interest. The appellant is a company engaged in the business of construction work of residential/commercial premises. The respondent no. 1/original defendant is a partnership firm. Respondents 2 and 3 are its partners. The respondents are engaged in the business of developing commercial and residential real estate properties.

4. A work order dated 15th September 2016 was issued by the defendant no. 1 to the appellant for construction of residential and commercial premises. The appellant undertook the work of construction of the project and the construction proceeded to a substantial extent.

5. It is the contention of learned counsel for the appellant that suddenly, without any reason and that too when the construction reached an advanced stage, by an email dated 15th November 2019, the work order was unlawfully terminated without any prior intimation to the appellant. Learned counsel for the appellant, while assailing the order passed by the learned District Court on the application made vide Exhibit 15 by the appellants, which was for maintenance of status quo or for grant of temporary injunction restraining the defendants from carrying out further construction on the suit property and/or to direct the respondents/defendants to submit a Bank Guarantee to the tune of Rs. 10,06,04,149/-, has submitted that the District Court has erred in rejecting the application. It is submitted that the appellant had spent considerable sums of money in the construction of the subject building pursuant to the work order issued. It is the contention of learned counsel that without giving any reasons, the work order has been unlawfully terminated to the detriment of the appellant.

6. The case of the appellant is that there are materials in the form of invoices/bills, to indicate that the appellant has spent considerable sums of money on the project construction. The work has been completed to the extent of 80%. Great prejudice would be caused to the appellant if the relief as prayed in the

Exhibit 15 application is denied and it would be then impossible for the appellant to recover the money.

7. We have carefully perused the impugned order passed by the District Court. The suit is filed for recovery of money. The entitlement of the appellant to the money claimed in the suit is yet to be determined. At this stage, it is not possible for the appellant/plaintiff to seek any relief in the nature as prayed for in the Exhibit 15 application. After the suit is decided or at an appropriate stage, it would obviously be open for the appellant to seek appropriate reliefs in the nature as claimed by the application Exhibit 15. At this stage we do not see any reason to restrain the respondents/defendants from alienating the suit flats in the facts and circumstances of the present case. The insistence on the part of the learned counsel for the appellant that the respondents should at least be directed to submit a Bank Guarantee of 10 crores and odd is also without any merit. We find that the the District Court has rightly exercised its discretion on the well settled legal principles while rejecting the Exhibit 15 application.

8. We, therefore, do not find any merit in this appeal. The appeal stands dismissed.

JAYANT
VISHWANATH
SALUNKE

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(M. S. KARNIK, J.)

(CHIEF JUSTICE)