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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 209 OF 2024
WITH
INTERIM APPLICATION NO. 6465 OF 2024**

Sunil Shriram Wagh and Others ... Appellants/Applicants

vs.

Special Recovery and Sales Officer,
Brihanmumbai Nagari Sahakari
Patsanstha Federation Ltd and Ors ... Respondents

Mr. Vivek Shukla a/w. Mr. Fayzan Khan i/b. Ms. Pragya Mishra for
Appellants/Applicants

Mr. J.S. Suryavanshi for Respondent No.2.

Mr. D.J. Haldankar, AGP for Respondent-State.

CORAM : GAURI GODSE, J.

DATED : 25th APRIL 2025

ORDER:

1. As per office note, a notice of the appeal is served upon all the respondents. This appeal is preferred by the plaintiffs to challenge the refusal of ad-interim relief. Learned counsel for the appellant submits that pursuant to the liberty granted by this court by order dated 17th January 2024 passed in Writ Petition No. 722 of 2024, the appellants have filed the suit restraining the respondents from dispossessing the plaintiff or attaching the plaintiff's property. He submits that without seeking permission under Section 22 of the Maharashtra Slum Areas (Improvement, Clearance and

Redevelopment) Act, 1971 (**'Slum Act'**), the respondent cannot take any action in respect of the plaintiff's property for executing the recovery certificate issued by respondent no.1. He further submits that for recovering the amount borrowed by the plaintiffs' brother the respondents are seeking to attach plaintiffs' property. He submits that time was granted to the respondent to file a reply and the notice of motion was listed on 23rd April 2024. However, since the court was vacant, the motion was adjourned to 19th June 2025.

2. Learned counsel appearing for the contesting respondent no.2 submits that if a reply is not yet filed he will file reply to the notice of motion on the next date or any date assigned by the City Civil Court. In view of the objections raised on behalf of the appellants opposing attachment of his property for executing the recovery certificate issued in the name of plaintiffs' brother, the appellants would be entitled to protection at this stage. The issue regarding necessary permission under Section 22 of the Slum Act is required to be examined considering the reply filed by the respondents. Hence, at this stage, if any further reasons are recorded in this appeal, the same would cause prejudice to the rival contention of the parties on merits in notice of motion.

3. However, the appellants would be entitled to protection till the motion is heard. Hence, the appeal is disposed of by passing the following order:

I) The impugned order refusing grant of ad-interim relief is quashed and set aside.

II) The respondents shall file reply, if not yet filed in the notice of motion in the pending suit.

III) Till the disposal of notice of motion, by way of ad-interim relief no coercive action to be taken against the appellants in respect of the suit structure for executing the recovery certificate.

IV) Notice of motion shall be decided on its own merits uninfluenced by the impugned order or any observation made in this order.

V) All rival contentions of the parties on merits are kept open.

VI) The parties shall not be granted unnecessary adjournment and the parties shall cooperate in the earlier disposal of notice of motion.

4. The appeal from order is disposed of in the aforesaid terms.
In view of disposal of the appeal, the pending applications are disposed of as infructuous.

(GAURI GODSE, J.)