

Iresh

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

**APPEAL FROM ORDER NO. 453 OF 2024
WITH
INTERIM APPLICATION NO. 9533 OF 2024
IN
APPEAL FROM ORDER NO. 453 OF 2024**

Guruprasad Rambharose Kanojia

.....Appellant

Vs.

The State of Maharashtra Thr. Dy.
Collector (Enc/Rem) and Ors

.....Respondents

Mr. Nakwa i/b Mr. Prasad Apte for the appellant
Mr. D. J. Haldankar AGP for respondent-State

IRESH
MASHAL

CORAM : GAURI GODSE, J.

DATE : 17th JANUARY 2025

ORDER:

1. Heard learned counsel for the appellant. This appeal arises out of refusal to grant ad-interim relief. Main notice of motion is still pending for the defendants to file reply.
2. Learned AGP for the respondents submits that if reply is not yet filed, same would be filed in the City Civil Court on the next date.
3. Ad-interim relief is refused by recording that alternate premises no. 1905 is already allotted to the plaintiff. In view of these facts, I do not find any reason to interfere in the impugned order. Any further

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reasons recorded by this Court would affect the applicant's contentions on merits in the notice of motion pending before City Civil Court.

4. In view of the aforesaid, the appeal is dismissed.

5. It is clarified that the notice of motion shall be decided on its own merits, uninfluenced by this order.

6. It is clarified that if on the next date, no reply is filed on behalf of the defendants, the learned Judge before whom the notice of motion is pending would be at liberty to decide the notice of motion in absence of any reply.

7. Learned AGP submits that possession of the premises as per the allotment shall be handed over to the plaintiff within one week.

8. Till possession is handed over within a week to the plaintiff, the existing structure which is the subject matter of Suit No. 668 of 2024 shall not be demolished.

9. The statement made on behalf of the plaintiff that possession of the alternate premises offered by the respondents shall be taken by the plaintiff is accepted as an assurance to this Court. Therefore, it is clarified that only if possession is taken by the plaintiff of the alternate premises, the aforesaid protection shall continue for a week.

[GAURI GODSE, J.]