

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**INTERIM APPLICATION NO. 8225 OF 2024
IN
APPEAL FROM ORDER NO. 811 OF 2023**

Kalpita Enclave Co-operative
Housing Society Limited and ors

.....Applicants

Vs.

Municipal Corporation of Greater Mumbai

.....Respondent

Mr. Rohan Savant a/w Mr. Sushil Singh i/b Mr. Abhijit Mahadeokar for
the applicant

Mr. Girish Godbole, Senior Advocate a/w Mr. Om Suryavanshi for BMC
Mr. Vishal Kanade a/w Ms. Chaitra Rao and Jatin Sheth for the
applicants in IA ST No. 17287 of 2024

CORAM : GAURI GODSE, J.

DATE : 7th JANUARY 2025

IRESH
MASHAL

Digitally
signed by
IRESH
MASHAL
Date:
2025.01.10
10:05:16
+0530

ORDER:

1. This application is filed by the original plaintiff seeking fresh order of injunction based on notice dated 2nd February 2024. The appeal from order is dismissed by this Court on 3rd October 2023. In view of clause 8 of the order dated 3rd October 2023, the appellant has filed the present application seeking fresh injunction against the corporation.

2. Learned senior counsel for the corporation submits that pursuant to paragraph 8 of the order dated 3rd October 2023, corporation has already issued notice dated 2nd February 2024.

3. Learned counsel for the plaintiff submits that fresh notice dated 2nd February 2024 is not challenged by the plaintiff in the City Civil Court. There is no application filed before the City Civil Court for seeking any injunction on the ground of any change in circumstances.

4. The prayers made in the present application are therefore not maintainable in a disposed of appeal from order. However, the applicant would always be at liberty to agitate the grievances made in the present application before the City Civil Court.

5. Application is therefore disposed of as not maintainable.

6. It is further clarified that the applicant would be at liberty to file appropriate application as permissible in law before the City Civil Court in the pending suit. If any such application is filed, same to be decided on its own merits, uninfluenced by this order. Rival contentions of the parties on merits of this application are kept open.

7. At this stage, learned counsel for the applicant seeks extension of interim protection granted by this Court on 2nd May 2024.

8. In the event, the applicant files an appropriate application before the City Civil Court within a period of two weeks from today, the protection already granted by this Court on 2nd May 2024 shall continue for a period of three weeks from today.

9. In view of disposal of this application, all other pending applications are disposed of as withdrawn.

[GAURI GODSE, J.]