

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 852 OF 2024

WITH

INTERIM APPLICATION NO. 15254 OF 2024

Shri. Pandu Shetty (deceased) through  
Sumana Shetty

] *Appellant*  
*Original Plaintiff*

: *Versus* :

Maharashtra Industrial Development  
Corporation

] *Respondent*  
*Original Defendant*

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**Mr. Jayendra Khairnar** *i/by. Ms. Asha Shah, for the Appellant.*

**Mr. Prashant Chawan, Senior Advocate** *with Ms. Reshmarani Nathani and Ms. Karishma Jhaveri i/by. M/s. Navdeep Vora & Associates, for the Respondent-MIDC.*

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CORAM : SANDEEP V. MARNE, J.

DATED : 28 APRIL 2025.

P.C. :

1) The Appeal challenges the order dated 13 September 2024 passed by the learned Judge, City Civil Court, refusing to grant ad-interim relief in the draft Notice of Motion tendered in Suit No.1938/2024.

2) When the Appeal came up before this Court on 17 December 2024, following order was passed :

1. Heard learned Counsel for the Appellant.
2. The Appeal is filed challenging the impugned order dated 13/09/2024 passed by City Civil Court, Borivali Division, Dindoshi on Draft Notice of Motion in S. C. Suit No. 1938 of 2024. By the impugned order, the interim relief is refused.
3. In the suit, notice dated 09/08/2024 is challenged.
4. Perusal of the suit notice indicates that the original lease in favour of the Deceased Pandu is already expired and there are arrears of rent, as on today. Suit notice also indicates that the Appellant or his widow, who is now proceeding with the matter, has not availed of converting the rental lease into premium lease in respect of the suit shop, which is a Pan Bidi Shop.
5. Learned Counsel for the Appellant submits on instructions that, the Appellant is ready to apply for conversion of rental lease into premium lease or apply for fresh premium lease and is also willing to deposit the entire arrears of rent as on today, as per the directions of the Court.
6. Considering the aforesaid submissions, issue notice to the Respondent, returnable on 21/01/2025.
7. Till the next date, the Respondent is directed not to take coercive steps pursuant to the suit notice dated 09/08/2024, subject to the Appellant paying, and if not accepted, recording tender of entire pending rent as on today, without prejudice to the rights and contentions of both the sides, on or before the next date.

3) It is the contention of the Appellant that in pursuance of the order dated 17 December 2024 repeated attempts are made for tendering the entire pending rent with the Respondent, which is not being accepted.

4) In my view, the possession of structure of the Appellant has been protected on account of *ad-interim* relief granted by this Court on 17 December 2024. The said protection continues to operate for the last about five months. It would therefore be appropriate that the City Civil Court adjudicates the pending Notice of Motion rather than this Court determining the correctness of order of refusal of *ad-interim* relief. The interim arrangement made by this Court could be continued till decision of the Notice of Motion.

5) The Appeal is accordingly **disposed of** by requesting the Judge, City Civil Court to decide the Notice of Motion in an expeditious manner preferably within a period of 4 months. Till decision of the Notice of Motion, the *ad-interim* protection granted by this Court by order dated 17 December 2024 shall continue to operate.

6) With disposal of the Appeal, the Interim Application taken out for stay does not survive. The same also stands **disposed of**.

[SANDEEP V. MARNE, J.]

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