

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
COMMERCIAL APPEAL FROM ORDER NO.11 OF 2024
WITH
INTERIM APPLICATION NO. 10154 OF 2024
IN
COMMERCIAL APPEAL FROM ORDER NO.11 OF 2024

M/s.Shaw Hotels and Consultancy .. Appellants
Services Pvt Ltd through its Director
Mrs.Pervin Ghani and ors

Versus

Ankit Mukesh Parekh .. Respondent

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Mr. Samarth R. Moray i/b Ms.Shivani S. Shinde for the appellants.
Ms.Samiksha Kanani with Mr. Paresh Waghmare for the respondent.

CORAM : ALOK ARADHE, CJ &
BHARATI DANGRE, J
DATED : 10th MARCH, 2025

ORDER:- (Per Chief Justice)

1 This Appeal under Section 13(1A) of the Commercial Courts Act, 2015, is directed against an order dated 3/5/2024 passed by the learned Judge of the City Civil Court, Commercial Division, Mazgaon, Mumbai, by which the learned Single Judge has rejected the Motion for grant of temporary injunction.

2 The facts giving rise to filing of this Appeal, in a nutshell, are that the plaintiff had filed a suit seeking the relief of

declaration, permanent injunction and damages. The claim in the Suit was based on the ground that the respondent had joined the appellant no.1 on 1/5/2016 as Assistant Manager and an employment contract was executed. On 2/2/2022, the respondent submitted his resignation and on 10/2/2022, joined the competitor of the appellant in breach of his employment contract. Thereupon, appellant no.1 on 16/3/2022, sent a notice to which respondent filed the reply on 29/3/2022. Thereafter, the Civil Suit, as aforesaid, was filed along with the plaint and application seeking temporary injunction was also filed, seeking an injunction not to divulge the confidential information as per the contract agreement.

2. The respondent filed reply to the aforesaid application for injunction. The learned Judge of the Commercial Court by an order dated 3/5/2024, inter alia held that there is no prima facie material on record to show that respondent is in possession of any confidential information during his employment with appellant no.1 Company.

3 Therefore, an application seeking temporary injunction was rejected. Hence, this Appeal.

4 Learned counsel for the appellant submitted that the judicial discretion to deal with the prayer for temporary injunction, restraining the respondents from sharing the appellant no.1's business secrets, customer information and contacts has been dealt with, in an arbitrary and capricious manner by the

learned Judge of the Commercial Court. It is submitted that under clause 6(i) of the Employment Contract, the respondent was under an obligation not to divulge any secret information.

5 Our attention has also been invited to clause 3(xi) which is a non-compete clause. On the other hand, learned counsel for the respondent has submitted that respondent is not in possession of any confidential information in relation to the appellant no.1's business secrets, customer information and contacts, and therefore, the respondent shall not divulge the same.

6 The aforesaid undertaking made on behalf of the respondent is taken on record. It is therefore, not necessary for us to adjudicate the issue with regard to validity of the impugned order. The same is therefore set aside.

Accordingly, Appeal is disposed of.

In view of disposal of Appeal, Interim Application does not survive and is disposed of.

(BHARATI DANGRE, J.)

(CHIEF JUSTICE)