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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 95 OF 2025
WITH
INTERIM APPLICATION NO. 1679 OF 2025
IN
APPEAL FROM ORDER NO. 95 OF 2025**

Kirtidev Girish Munshi

.....Appellant

Vs.

Shivangi Bansal Nee Poddar and ors

.....Respondents

Mr. V. P. Sawant, Senior Advocate a/w Mr. Armaan Grewal i/b M/s. N. N. Vaishnawa & Co. Advocate for the Appellant
Mr. Gaurav Pandey for respondent no. 1
Ms. Pooja Thorat, Mr. Robin Fernandes, Mr. Sukrit Parashar Ms. Maitri Yadav i/b Vesta Legal for respondent no. 2
Mr. Om Suryawanshi for respondent-BMC

IRESH
MASHAL

CORAM : GAURI GODSE, J.

DATE : 14th FEBRUARY 2025

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ORDER:

1. Heard learned counsel for the parties. This appeal is preferred by the plaintiff to challenge the order passed in a suit refusing to grant ad-interim relief. The suit is filed for various reliefs seeking damages against defendants for the alleged unauthorised construction.

2. According to the plaintiff, defendant no. 1 is the tenant of second floor premises and defendant no. 2 is the owner of the premises. The plaintiff claims to be tenant of defendant no. 2 in respect of the first floor premises. Defendant no. 3 is the Municipal Corporation and defendant nos. 4 and 5 are the officers of the Municipal Corporation. The prayer for damages is against all the defendants.

3. In this suit for damages against all the defendants, the notice of motion is filed seeking various interim reliefs against the defendants.

4. The ad-interim relief is refused and the notice of motion is still pending for final disposal.

5. Learned senior counsel for the appellant submits that in view of the unauthorised construction carried out by defendant no. 1, the plaintiff's premises has been damaged and therefore, he is entitled to damages from the defendants. He submits that defendant no. 1 is attempting to create third party rights in respect of her premises. He submits that in the event defendant no. 1 creates third party rights, the plaintiff's prayer for damages shall be affected as he would not be in a position to recover damages from defendant no. 1. To support his submissions, learned senior counsel relies upon various averments in

the plaint through which the plaintiff claims that defendant no. 1 would also be liable to carry out repairs. He, therefore submits that to protect the plaintiff's right to recover claim of damages against defendant no. 1, ad-interim relief against defendant no. 1 restraining her from surrendering or transferring her property needs to be granted. He submits that the plaintiff pressed for ad-interim relief in terms of prayer clause (c) only against defendant no. 1.

6. I have perused the papers of the appeal. The suit is for only for damages against all the defendants. There are various prayers for interim relief against all the defendants. The prayer for ad-interim injunction pressed against defendant no. 1 is restraining her from surrendering or transferring or parting with possession of the premises. I have perused the prayers in the notice of motion. Prayers in the notice of motion are not in the aid of main relief in the suit.

7. In any event the prayers in the notice of motion cannot be decided without a reply from all the respondents. The prayer for damages is not restricted only against defendant no. 1 and the prayers are against all the defendants. The plaintiff has no right, title and interest in the premises owned by defendant no. 1. In view of the final reliefs claimed in the suit and the nature of interim relief prayed in the

notice of motion, I see no ground to grant any ad-interim relief.

8. Considering the prayers made in the main suit, there cannot be any fault in the reasons recorded by the learned Judge refusing grant of ad-interim relief.

9. The appeal is devoid of any merit. Hence, the appeal is dismissed.

10. In view of dismissal of appeal from order, the Interim Application No. 1679 of 2025 is disposed of as infructuous.

[GAURI GODSE, J.]