IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.702 OF 2026
WITH
INTERIM APPLICATION NO.5207 OF 2026
IN
APPEAL FROM ORDER NO.702 OF 2026

Niraj Kakad Construction Private Limited — Appellant

Versus

Khalifa Infrastrcture LLP & Ors — Respondents

Adv. Karl Shroff a/w Adv. Nishit Tanna & Adv. Pranali Rawool i/by Adv. Ashok Saraogi for the Appellant.

Adv. Jainish Jain for Respondent Nos.1 to 3.

Adv. Pragya i/by Ms. Legal Vision for Respondent No.4.

Adv. Abhishek Mookherjee a/w Adv. Ansh Kumar i/by Shardul Amarchand Mangaldas & Co. for Respondent No.5.

PRIYANKA MADHAVRAO KALE
Digitally signed by PRIYANKA MADHAVRAO KALE
Date: 2026.10.13 18:31:01 +0530

CORAM: AARTI SATHE, J.

DATE: 12th October 2026.

P.C.

1. This Appeal from Order has been filed under Order XLIII, Rule 1(r) read with Section 104 of the Civil Procedure Code, 1908 (hereinafter referred to as 'the CPC') taking exception to the Order dated 16th April 2026 passed by the City Civil Court at Dindoshi, Goregaon, Mumbai (hereinafter referred to as 'the Trial Court'), whereby no ad-interim reliefs were granted in favour of the Appellant despite the Notice of Motion having been made returnable.

2. Heard learned counsel on behalf of the parties.

3. Learned counsel on behalf of the Appellant submits that by way of the impugned Order dated 16th April 2026, the Trial Court erred in not granting or considering the prayers for ad-interim reliefs and thereby simply directed the parties to file necessary reply and kept the matter for hearing on 11th June 2026. Learned counsel on behalf of the Appellant further submits that, since no order was passed on 16th April 2026, a praecipe dated 23rd April 2026 was filed before the Trial Court however, no order was passed, and there is no roznama to that effect. It is further submitted that the non-granting of the aforesaid ad-interim reliefs amounts to a refusal to exercise jurisdiction under Order XXXIX Rule 1 and 2 of the CPC and hence, this Appeal from Order is maintainable.

4. Learned counsel on behalf of the Respondent Nos.1 to 3 has opposed the reliefs as sought for in the present Appeal from Order. Learned counsel on behalf of the Respondent No.4 has also sought to oppose the reliefs as prayed and raised a preliminary objection regarding maintainability of the aforesaid Appeal from Order.

5. This Court is of the view that, having considered the fact that no order has been passed by the Trial Court and without delving into the merits of the matter nor expressing any *prima facie* view in regard to the subject matter of the Appeal from Order, this Appeal from Order can be disposed of by directing the Trial Court to dispose of Notice of Motion No.1206 of 2026, as expeditiously as possible, and preferably on the next adjourned date of hearing i.e. 19th November 2026.

6. It has been brought to the attention of this Court that, the Court before which Notice of Motion No.1206 of 2026 is pending adjudication is lying vacant. If the Court remains vacant even on the said date, the Appellant is at liberty to mention the matter before the next available alternate Bench of the Trial Court. The parties shall not seek adjournment at the time of hearing.

7. All contentions of the parties are expressly kept open.

8. The Appeal from Order is disposed of in the aforesaid terms.

9. In view of disposal of the Appeal from Order, the Interim Application also stands disposed of. No costs.

(AARTI SATHE, J.)