

CASE NO.:
Appeal (civil) 6088 of 2002

PETITIONER:
SHOBHA & ANR

RESPONDENT:
M/S. AREN BUILDERS & PROMOTERS

DATE OF JUDGMENT: 23/04/2008

BENCH:
H.K. SEMA & MARKANDEY KATJU

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO.6088 OF 2002

This appeal is directed against the interim order granting temporary injunction passed by the High Court in terms of the application under Order XXXIX Rules 1 and 2 of Civil Procedure Code in a pending suit. This Court passed the following order on 28.08.2006 :

" In the interlocutory application, it is stated that though proceedings in Suit No.1343 of 1995 have not been stayed by this Court but since 2001, there has been no progress in the suit before the trial court on the ground of pendency of this appeal. We fail to understand the reason for not proceeding with the suit on account of the pendency of this appeal which concerns an order on application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 and has no relevance as far as the decision of the suit on merits is concerned. While dismissing the application seeking early hearing, we direct the trial court to proceed with the suit and decide it expeditiously."

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Today, it has been brought to our notice that despite the aforesaid order passed by this Court directing the trial court to proceed with the pending suit and decide it expeditiously, an order has been passed by the learned Single Judge of the High Court in Civil Revision Application No.94 of 2007 which stayed the trial of the suit. In our view, judicial propriety demands that the direction issued by this Court should be adhered to and respected by the High Court. We say no more. The order impugned in this appeal being an interim order passed under Order XXXIX Rules 1 and 2 we see no reason to interfere. The appeal is dismissed accordingly.

We direct the trial court to proceed with the suit and dispose of the same expeditiously in terms of our direction dated 28.08.2006 as referred to above. We make it clear that while proceeding with the suit the trial court shall ignore the interim order passed by the High Court on 05.12.2007. The trial court is directed to dispose of the suit within six months from the receipt of this order.