

Court of Appeals
Fourth Court of Appeals District of Texas
San Antonio



MEMORANDUM OPINION

No. 04-12-00397-CV

IN RE BRASS CENTERVIEW HOLDINGS, L.L.C.
and Brass Centerview Management, L.L.C.

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Catherine Stone, Chief Justice
Karen Angelini, Justice
Steven C. Hilbig, Justice

Delivered and Filed: July 11, 2012

PETITION FOR WRIT OF MANDAMUS DENIED

On July 2, 2012, relators filed a Petition for Writ of Mandamus and Motion for Temporary Relief in this court. In their petition, relators note that they have an interlocutory appeal pending relating to the trial court's order dissolving, in part, a temporary injunction that was previously granted. Relators further note that the trial court denied their request to determine an appropriate supersedeas bond. Finally, we note that relators have filed an emergency motion in the pending appeal seeking the same relief sought in this original proceeding.

¹ This proceeding arises out of Cause No. 2011-CI-16071, styled *Brass Centerview Holdings, L.L.C. and Brass Centerview Management, L.L.C. v. Capmark Finance, Inc., et al.*, pending in the 438th Judicial District Court, Bexar County, Texas, the Honorable Karen H. Pozza presiding.

Mandamus is an extraordinary remedy that will issue only if the party requesting mandamus relief has no adequate remedy by appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004); *Walker v. Packer*, 827 S.W.2d 833, 840–41 (Tex. 1992). In this case, relators can and have challenged the trial court’s ruling on the requested supersedeas by filing a motion in the pending appeal pursuant to TEX. R. APP. P. 24.4.² Relators also can seek and have sought temporary relief pending the interlocutory appeal pursuant to TEX. R. APP. P. 29.3. Because the Texas Rules of Appellate Procedure provide relators with an adequate remedy by appeal, relators’ petition for writ of mandamus and motion for temporary relief are denied. *See In re Holland*, No. 14-09-00656-CV, 2009 WL 3154479, at *2 (Tex. App.—Houston [14th Dist.] Oct. 1, 2009, orig. proceeding) (temporary relief pending appeal pursuant to TEX. R. APP. P. 29.3 provides an adequate remedy by appeal; *cf. Rowe v. Watkins*, No. 08-09-00001-CV, 2009 WL 2623353, at *2 (Tex. App.—El Paso Aug. 26, 2009, orig. proceeding) (mandamus relief available where trial court had not entered a written judgment so relator was prevented from appealing the merits of the case and raising on appeal the trial court’s noncompliance with TEX. R. APP. P. 24). Relators shall pay all costs incurred in this proceeding.

PER CURIAM

² Relators also will be entitled to seek review of this court’s ruling on the motion pending in the appeal relating to the supersedeas by filing a petition for writ of mandamus with the Texas Supreme Court. TEX. R. APP. P. 24.4(a).