

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO.141 OF 2016
WITH
CIVIL APPLICATION NO.192 OF 2016**

Dipesh M. Gandhi
V/s. ...Appellant

Bhagwanji R. Gandhi
Since deceased through
legal heirs ...Respondents

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Mr. Rajesh Jain with Mr. Ameya Mahajan and Ms. Kalyani Joshi i/by
Legal Juris , Advocates for the Appellant/Applicant.
Ms. J. Menon i/by M.Janardhan, Advocate for the Respondent
Nos.1A to 1B.

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CORAM : N.M.Jamdar, J.

DATE : 6th April, 2016.

PC.:

The learned counsel for the appellant states that the appeal has been filed erroneously. He seeks leave to withdraw the appeal as the appellant wishes to challenge the impugned order by taking appropriate proceedings. Leave granted. Appeal is, accordingly, disposed of as withdrawn.

2 The learned counsel for the appellant states that the stay granted by this Court be extended by a period of two weeks from today. The learned counsel for the Respondent vehemently opposes. She submits that the ad-interim order granted on 22.1.2016 was only till the next date and it has not been extended. The learned counsel for the appellant, however, states that the ad-interim order has been continued.

3 However, since the appeal itself is now held to be not maintainable, an ad-interim relief passed in a non-maintainable appeal cannot be continued. Furthermore, the interim relief is sought regarding direction to deposit money. The learned counsel for the appellant states that if the amount as directed by the City Civil Court, Greater Bombay is not deposited, the chamber summons taken out by the appellant would be dismissed by the next date, which is 25.4.2016. This consequence can be taken care by granting liberty to the appellant to make an application for appropriate adjournment before the City Civil Court. The City Civil Court will, if application is made, grant an appropriate adjournment after hearing both the

sides.

4 The learned counsel for the appellant states that a writ petition will be filed within a period of two weeks from today.

5 As the appeal itself is disposed of, nothing survives in the civil application therein and the same also stands disposed of accordingly.

(N.M.Jamdar, J.)