

Amk

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO. 432 OF 2015  
WITH  
CIVIL APPLICATION NO. 573 OF 2015**

Tivoli Terrace Co-op. Housing Society Ltd. & Ors.                      .. Appellants  
Vs.  
Mr. Rajendra Narayan Rane & Anr.                                              .. Respondents

Mr. Nilesh Pandey i/b Mr. A. S. Malvankar for the Appellants.  
Mr. A. R. Maurya i/b ARM Legal for Respondent No.1.  
Mr. Anand Waradkar i/b Mr. Dhairyasheel A. Nalavade for Respondent No.2.

**CORAM : G. S. KULKARNI, J.**  
**DATE : 28<sup>th</sup> NOVEMBER, 2016.**

**P. C. :**

1. This appeal is directed against an order dated 20.03.2015 passed by the learned Trial Judge whereby ad interim relief has been refused on a draft Notice of Motion in S.C. Suit No.772 of 2015. The dispute appears to be in regard to the construction of a compound wall. Admittedly, since passing of the impugned order on 20.03.2015 till date, there is no protection which is granted either by the Trial Court or by this Court. In the circumstances, it is appropriate that the Notice of Motion itself be heard and decided by the Trial Court.

2. The impugned order, therefore, does not call for any interference. The appellants to appear before the learned Trial Court with a request to take up the Notice of Motion for hearing, which shall be

considered on its own merit.

3. All the contentions of the parties are expressly kept open.
4. The Appeal from Order is disposed of in the above terms. No costs.
5. In the view of the disposal of the Appeal from Order, Civil Application No. 573 of 2015 does not survive and stands disposed of.

**[G. S. KULKARNI, J.]**