

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****APPEAL FROM ORDER NO. 405 OF 2014****ALONGWITH****CIVIL APPLICATION NO. 458 OF 2014****IN****APPEAL FROM ORDER NO. 405 OF 2014****Deepak Naraindas Bhathija****..... Appellant****VERSUS****K.Mani Naidu & Anr.****..... Respondents**

Mr.R.A.Thorat, Senior Advocate, i/b. Mr.Jitendra Patil for the Appellant.

Mr.Suresh Rajeshwar for the Respondents.

CORAM : R.D. DHANUKA, J.**DATED : 22nd FEBRUARY, 2016****P.C.**

By this appeal from order, the appellant has impugned the order dated 17th February, 2014 passed by the learned trial judge dismissing the notice of motion. No ad-interim order is granted by this court in this appeal since the date of filing of this appeal.

2. Mr.Thorat, learned senior counsel appearing for the appellant states that the appellant (original plaintiff) has also filed a separate chamber summons inter alia praying for amendment in the plaint and the same is pending. He submits that the suit itself was on board for framing issues. It is submitted that if the chamber summons is allowed by the learned trial judge, the appellant be granted liberty to make an application for interim relief.

3. Since the notice of motion is dismissed on 17th February,2014 and there is no

ad-interim relief granted by this court and since matter itself was on board for framing issues, I do not propose to interfere with the order passed by the learned trial judge at this stage.

4. If the appellant chooses to file any notice of motion for interim relief after disposal of the chamber summons, the learned trial judge shall decide the said notice of motion on its own merits. All contentions raised by the parties are kept open. The hearing of the suit is expedited. The suit is of the year 2009 and thus the learned trial judge shall make an endeavor to dispose of the suit within two years from the date of commencement of the oral evidence.

5. Appeal from order is disposed of in the aforesaid terms. No order as to costs. In view of disposal of the appeal from order, civil application does not survive and is accordingly disposed of.

[R.D. DHANUKA, J.]