

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

APPEAL FROM ORDER NO. 347 OF 2016
WITH
CIVIL APPLICATION NO. 448 OF 2016
WITH
CIVIL APPLICATION (STAMP) NO. 28039 OF 2016

Mr. Ayaz Zakaria Hawa .. Appellant
Vs.
The Municipal Corporation for Gr. Mumbai .. Respondent

Mr. Pradeep J. Thorat for the Appellant.
Mr. A. Y. Sakhare, Sr. Advocate a/w. Mrs. Madhuri More for the Respondent.
Mr. R. S. Apte, Sr. Advocate a/w. Ms. Dhruti M. Kapadia for the Intervener.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.
DATE : 6th OCTOBER, 2016.

P. C. :

1. This appeal is preferred against the order dated 28.03.2016 passed by the City Civil Court, Mumbai in Draft Notice of Motion filed in L. C. Suit No. 703 of 2016. By the impugned order, the Trial Court has refused the ad interim relief.

2. It is common ground between the parties that the Notice of Motion is still pending before the Trial Court and respondent-Corporation has yet not filed affidavit-in-reply thereto. It is also pointed out that the tenant of the suit property has already filed the Chamber Summons in the said suit for his impleadment.

3. In view thereof, the interest of justice would require that the parties to appear before the Trial Court and proceed with the hearing of the Notice of Motion.

4. In view thereof, the appeal is disposed of by following order:

- (i) Learned counsel for the respondent submits that the respondent-Corporation will be filing its reply within two weeks thereafter. Then, the Trial Court shall decide the Chamber Summons and thereafter to decide the Notice of Motion as expeditiously as possible.
- (ii) Both the parties to appear before the Trial Court on 20.10.2016. Thereafter, the Trial Court to proceed with the hearing of the Notice of Motion.
- (iii) Order of ad interim relief granted by this Court is to continue till the period of two weeks after the Trial Court decides the Notice of Motion.
- (iv) As the appeal is disposed of, both the civil applications do not survive and stand disposed of.

[DR. SHALINI PHANSALKAR-JOSHI, J.]