

Amk

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

**APPEAL FROM ORDER 664 OF 2015
WITH
CIVIL APPLICATION NO. 814 OF 2015**

Mrs. Tabbssum Asgar Ali Sayyed .. Appellant
Vs.
M/s. Darshan Developers Pvt. Ltd. & Ors. .. Respondents

None for the Appellant.
Mr. Madhur S. Surana for Respondent No.1.

CORAM : G. S. KULKARNI, J.
DATE : 15th NOVEMBER, 2016.

P. C. :

1. This appeal was called out in the morning session. None appeared for the appellant. Again in the second session when it is called out, none appears for the appellant. Mr. Surana appears for the respondent No.1. It appears that the appellant is not interested to prosecute this appeal as evident from the absence of the appellant when called out at both sessions.

2. In any case, the challenge raised in the appeal against an order dated 27.03.2015 passed in Notice of Motion No. 873 of 2015 in S. C. Suit No. 534 of 2015 refusing ad interim relief. The Notice of Motion appears to be pending disposal before the City Civil Court at (Borivali Division) Dindoshi, Goregaon, Mumbai. Perusal of the impugned order indicates that the learned Judge has come to prima facie conclusion that

the appellant is not entitled for the ad interim relief as prayed in the Notice of Motion. The order is a reasoned order. Further no protection is granted by this Court after filing of this Appeal. In these circumstances, the appeal need not be kept pending. It would be appropriate that the learned Trial Judge hears and decides the said Notice of Motion.

2. All contentions of the parties on merits of the matter are kept open.
3. The appeal is, accordingly, disposed of.
4. Needless to observe that the learned Trial Judge shall decide the Notice of Motion on its own merits without being influenced by the observations made in the ad interim order passed in the Notice of Motion.
5. In view of the disposal of the appeal, civil application No. 814 of 2015 does not survive and stands disposed of.

[G. S. KULKARNI, J.]