

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

Amk

**APPEAL FROM ORDER (STAMP) NO. 13274 OF 2016
WITH
CIVIL APPLICATION (STAMP) NO. 13276 OF 2016
WITH
CIVIL APPLICATION (STAMP) NO. 28045 OF 2016**

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

Mr. A. Y. Sakhare, Sr. Advocate a/w. Mrs. Madhuri More for the Appellant.
Mr. Pradeep J. Thorat 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. 680 of 2016. By the impugned order, the Trial Court has granted the ad interim relief in terms of prayer clause (a).

2. It is an admitted position that the Notice of Motion taken out by the appellant is still pending before the Trial Court. In the said Notice of Motion, neither the Municipal Corporation has filed the reply nor the Chamber Summons filed by the Tenant for impleadment in the suit has been decided till date.

3. Hence, in such a situation, both the parties to appear before the Trial Court and the Trial Court to proceed with the hearing of the Notice of Motion after the respondent files the reply to the Notice of Motion and the Chamber Summons of the intervener is decided. Till then, the order of ad interim relief granted by the Trial Court needs to be maintained.

4. Accordingly, 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.]