

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

APPEAL FROM ORDER NO. 542 OF 2016
WITH
CIVIL APPLICATION NO. 699 OF 2016

Lt. Col. Shyam B. Chavan .. Appellant/Applicant
Vs.
Col. Sudhir S. Sawant & Ors. .. Respondents

Mr. V. Y. Sanglikar i/b Vaishali A. Ugale for the Appellant/Applicant.
Mr. S. S. Halwasia i/b H. S. Ansari for Respondent No.1(a)

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

P. C. :

1. Heard learned counsel for the appellant and respondent.
2. This appeal is preferred against the order passed by the City Civil Court, Mumbai on 09.05.2016 in Draft Notice of Motion thereby rejecting the ad interim relief.
3. Now, it is submitted by learned counsel for both the parties that the matter is scheduled before the Trial Court on 05.10.2016 for hearing on Notice of Motion. In that Notice of Motion, respondents herein have filed a reply and the matter is for filing of the rejoinder.
4. In view thereof, the interest of justice requires that the Notice of Motion be heard by the Trial Court instead of this appeal being decided. At this stage, learned counsel for the appellant submits that there are certain observations made by the Trial Court in its impugned order while

refusing ad interim relief and appellant is very much aggrieved because of those observations.

5. Needless to state that when the Trial Court decides the Notice of Motion on merits, those observations will not come into the way as the Trial Court will be deciding the Notice of Motion afresh. It is also clarified that this Court is not making any observations on merits and all the points raised by the parties are left open for the Trial Court to consider. Both the parties are directed to appear before the Trial Court on 19.09.2016. Prior to that, learned counsel for the appellant to serve a copy of rejoinder to the learned counsel for the respondent in advance. The Trial Court to hear the Notice of Motion as expeditiously as possible.

6. The Appeal from Order is, accordingly, disposed of.

7. In view of the disposal of the Appeal from Order, the Civil Application does not survive and hence stands disposed of.

[DR. SHALINI PHANSALKAR-JOSHI, J.]