

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST.) NO. 16497 OF 2016
WITH
CIVIL APPLICATION (ST.) NO. 16498 OF 2016
IN AO(ST.) NO. 16497 OF 2016

Mr. Abhay Panchamia & others ... Appellants.

V/s.

Veena Santoor Co-op Hsg. Soc. Ltd. & others ... Respondents.

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Mr. J. G. Damani for the Appellants.

Mr. Abhishek A. Walwaikar for Respondent Nos.1 to 4.

Mr. Yadhunath Chaudhari i/b. Mr. Sushmit Phatale for Respondent No.5.

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CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : OCTOBER 17, 2016.

P.C.:

1. As this Appeal is preferred against refusal of ad-interim relief in the pending Notice of Motion No.2971 of 2015, the Appeal is heard at the stage of admission itself.

2. Considering the fact that the impugned order is passed by the City Civil Court, Dindoshi, Goregaon, Mumbai on 5th May 2016 in Notice of Motion No.2971 of 2015 in Suit No.3075 of 2015, and as the Notice of Motion is yet pending before the trial court, natural justice would required that the trial court proceed with the hearing of the Notice of Motion itself.

3. Especially considering the fact as pointed out by learned counsel for the Respondents that Respondent Nos.1 to 4 had already preferred a Notice of Motion under Section 9A of the Code of Civil Procedure for

deciding the preliminary issue relating to jurisdiction of the trial court, it is, therefore, desirable that both these Notices of Motion be decided by the trial court as expeditiously as possible and preferably within a period of three months from today. Accordingly, the Appeal is disposed of in the above said terms.

4. In view of disposal of the First Appeal, nothing survives in the pending Civil Application and the same stands disposed of.

(DR. SHALINI PHANSALKAR-JOSHI, J.)