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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.749 OF 2016
WITH
CIVIL APPLICATION NO.940 OF 2016

Omkar Constructions	...Appellant
V/s.	
Ogale Glass Works Ltd. & Os.	...Respondents

Mr.Shekhar Jagtap i/b J. Shekhar & Co. for the Appellant.

Mr.Milind Sathaye for the Respondent No.1.

CORAM : R.D. DHANUKA, J.
DATE : 21ST DECEMBER, 2016.

P.C. :-

1. By this appeal from order, the appellant has impugned the ad-interim order dated 25th May, 2016 passed by the learned trial Judge below Exhibit 96.

2. The appellant has already filed an application under Order 7 Rule 11(a) and (d) of the Code of Civil Procedure, 1908 before the learned trial Judge raising the issue of jurisdiction in the pending suit. The original plaintiff has already filed reply to the said application. The appellant herein (original defendant no.9) has already filed affidavit in reply to the application for interim relief filed by the original

plaintiff.

3. In my view interest of justice would be met with if the application filed by the appellant herein under Order 7 Rule 11(a) and (d) of the Code of Civil Procedure, 1908 and the interim application for injunction filed by the original plaintiff are heard expeditiously.

4. It is made clear that that the learned trial Judge shall hear the application under under Order 7 Rule 11(a) and (d) of the Code of Civil Procedure, 1908 first and shall make an endeavor to dispose of the same within three months from the date of communication of this order. If the learned trial Judge is of the view that no relief can be granted in the application filed under Order 7 Rule 11(a) and (d) of the Code of Civil Procedure, 1908, the learned trial Judge shall hear the application for interim relief immediately and pass an order thereon within two weeks thereafter.

5. Learned counsel for the parties have agreed not to seek any unnecessary adjournment before the learned trial Judge and shall co-operate with each other and with the learned trial Judge in expeditious disposal of the aforesaid two applications.

6. It is made clear that the observations made by the learned trial Judge in the impugned *ad-interim* order dated 25th May, 2016 are prima-facie. The learned trial Judge shall decide the aforesaid two civil applications on its own merits and without being influenced by

the prima-facie observations made by the learned trial Judge in the impugned order.

7. The appeal from order is accordingly disposed of in aforesaid terms. No order as to costs.

8. In view of disposal of the appeal from order, Civil Application No.940 of 2016 does not survive and is accordingly disposed of.

9. All parties as well as the learned trial Judge to act on the authenticated copy of this order.

10. It is made clear that the *ad-interim* order passed by the learned trial Judge, which is the subject matter of this appeal, shall continue till the disposal of the aforesaid two applications and for two weeks thereafter.

(R.D. DHANUKA, J.)