

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

**APPEAL FROM ORDER NO.972 OF 2016
WITH
CIVIL APPLICATION NO.1223 OF 2016
IN
APPEAL FROM ORDER NO.972 OF 2016**

Mr. Sarafuddin S/o Usman Choudhary	...Appellant
vs.	
Maharashtra Housing & Area Development	...Respondent

Mr. Ashok M. Saraogi for the Appellant.
Mrs. Geeta Mulekar for the Respondent.

**CORAM: G.S.KULKARNI, J.
DATE: 28th NOVEMBER, 2016.**

P.C.:-

1. Not on board. Taken on board on a praecipe as moved on behalf of the Appellant.

2. Heard learned counsel for the Appellant. This appeal is directed against an order dated 27/9/2016 passed by the learned Judge City Civil Court at Bombay in a Draft Notice of Motion in L. C. Suit No.2241/2016. By the impugned order learned Trial Judge has refused to grant ad-interim relief. The only contention as urged on behalf of the Appellant is that the observations which are made in the impugned order are adversely affecting the contentions which could be raised at the hearing of the Notice of Motion.

3. In my opinion apprehension is not well founded. The observations made in the impugned order are prima facie

observations made by the Trial Court in refusing ad-interim relief. The Notice of Motion itself is pending adjudication. It is appropriate that Learned Trial Judge hear the Notice of Motion and decide the same.

4. All contentions of the parties on merits in that regard are expressly kept open.

5. Needless to observe that learned Trial Judge shall decide the Notice of Motion on its own merit.

6. In view of the above observations no interference is called for in this Appeal. Appeal is accordingly disposed of by permitting the Appellant to approach the Trial Court to appear at the hearing of the Notice of Motion. In view of disposal of the Appeal, Civil Application No.1223/2016 does not survive and is accordingly disposed of.

(G.S.KULKARNI, J.)