

-- **IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.1 OF 2015 with
CIVIL APPLICATION NO.2 OF 2015

Tejas Natwarlal Parekh .. Appellant

vs

Deepak Natwarlal Parekh... Respondent

Mr.Rajesh N.Kachare for Appellant

Mr.S.S.Shah with Mr.Hardik Desai I/.b

Ms.Purav Damania for Respondent

CORAM: G.S.KULKARNI, J

DATE : 19 DECEMBER 2016

P.C.

1. This Appeal is directed against an order dated 12.9.2014 passed by the learned Trial Judge in Notice of Motion No.3283 of 2014 whereby the learned Judge has refused ad-interim injunction as prayed for by the appellant/plaintiff and has framed a preliminary issue on the following terms:

“1. Whether this Court has jurisdiction to try and entertain the suit in view of provisions of Section 33 of Maharashtra Rent Control Act, 1999 ?”

2. What order ?”

2. This Appeal is pending for quite sometime and almost for more than two years. A perusal of the orders passed by this Court from time to time shows that for a substantial period, this Appeal was adjourned to explore the possibility of a settlement. I am informed by the learned counsel for the appellant that settlement talks simply could not go ahead.

3. Considering the nature of the matter, it would be

appropriate that the parties try and resolve the dispute as the litigation would not entail to the benefit of either of the parties considering the peculiar circumstances of the case.

4. Be that as it may, there is no interim protection which was granted in this appeal. A preliminary issue has already been framed as noted above, It would be appropriate that the preliminary issue of jurisdiction is heard and decided by the learned trial Judge and the appellant is permitted to seek appropriate interlocutory reliefs in the pending Notice of Motion after the issue of jurisdiction is decided.

5. In the above circumstances, no useful purpose would be served in keeping this Appeal pending. Accordingly, Appeal is disposed of by permitting the appellant to approach the learned trial Judge and request the learned trial Judge to take up the early hearing of the Notice of motion which be considered by the learned trial Judge on its own merits. Learned counsel for the respondent states that his client shall co-operate in the disposal of the Appeal. All contentions of the parties on merits of the matter are kept open.

6. Appeal is disposed of in above terms. No costs. Civil Application No.2 of 2015. would also not survive and is disposed of accordingly.

{G.S.KULKARNI, J}