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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.87 OF 2016
WITH
CIVIL APPLICATION NO.117 OF 2016

Pandit R. Dive	...Appellant
V/s.	
Deepak P. Dive	...Respondent

Mr.S.A. Sawant with Mr.Sandeep Barve and Ms.Sheetal Tapkir i/b
B.K. Barve & Co. for the Appellant.

Mr.Satish Kekane for the Respondent No.1.

CORAM : R.D. DHANUKA, J.
DATE : 1ST FEBRUARY, 2016.

P.C. :-

1. By this appeal from order, the appellant has impugned the order dated 21st October, 2015 passed by the learned trial Judge refusing to grant *ad-interim* relief in favour of the appellant, who is the father of the respondent (original defendant).

2. Learned counsel appearing for the respondent on instructions from his client, who is present in Court, states that he will not create any obstacle in the appellant staying in the suit premises and will not harass the appellant. He also states that he will maintain law and order situation in the suit premises during the pendency of

the notice of motion and would abide by the orders as may be passed by the learned trial Judge.

3. Mr.Sawant, learned counsel appearing for the appellant states that in view of continuous threat of physical assault on the part of the defendant, he was not staying in the suit premises for some time and wants to return to the suit premises. The appellant can occupy the suit premises. The appellant shall also maintain law and order in the suit premises and will not create obstacle against the respondent during the pendency of the notice of motion without prejudice to the rights and contentions of both the parties.

4. The respondent is directed not to create any third party rights in respect of the suit property during the pendency of the notice of motion.

5. It is made clear that this Court has not expressed any views on the merits of the matter. The observations made by the learned trial Judge are *prima-facie*. The learned trial Judge shall decide the notice of motion on its own merits without being influenced by the observations made in the impugned order dated 21st October, 2015. The learned trial Judge shall make an endeavor to dispose of the notice of motion within two months from today. Both the parties have agreed that they will not apply for unnecessary adjournment before the learned trial Judge. The statements of the

learned counsel for the parties are accepted.

6. The appeal from order is accordingly disposed of in aforesaid terms.

7. In view of the disposal of the appeal from order, the civil application does not survive and is accordingly disposed of. No order as to costs.

8. In case of any difficulty in implementing this order, both the parties are at liberty to apply before the learned trial Judge for modification of the order of this Court and for appropriate reliefs.

(R.D. DHANUKA, J.)