

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

APPEAL FROM ORDER NO. 238 OF 2015

WITH

CIVIL APPLICATION NO. 295 OF 2015

IN

APPEAL FROM ORDER NO. 238 OF 2015

**Mrs. Shahina Parveen Mohammed W/o. ...Appellant
Aamir Khan**

Versus

**Hanjar Nagar No. 6 Co-operative Housing ...Respondent
Soc. Ltd.**

Ms. Devki R. Sahu, i/b Mr. A.M. Saraogi, for the Appellant.

**CORAM : G.S. KULKARNI, J.
DATE : 6th December 2016**

ORDER :

1. Heard the learned Counsel for the Appellant.
2. This Appeal is directed against the order dated 3rd
December 2014 passed by the learned Trial Judge in draft Notice of
Motion in S.C. Suit No. 2828 of 2014 filed on behalf of the Appellant-

Plaintiff seeking relief of temporary injunction against the Respondent-Society on the ground that the Respondent-Society is trying to dispossess the Appellant-Plaintiff. The learned Trial Judge on material which was shown on record in the Suit for the reasons as setout, in the impugned order has rejected the ad-interim reliefs. The impugned order is dated 3rd December 2014. There is no protection granted by this Court in this Appeal. Perusal of the impugned order clearly indicates that the Notice of Motion was adjourned for Reply on 22nd December 2014. On a query made by Court, the learned Counsel for the Appellant states that the suit premises are in occupation of the Appellant and the Flat is already given on leave and licence.

3. Be that as it may, the impugned order being an ad-interim order and the Notice of Motion itself is pending adjudication before the learned Trial Court, considering the facts of the case, it would be appropriate that the Notice itself is heard and decided.

4. The Respondent is directed to file a Reply to the Notice of Motion, if already not filed, within a period of six weeks from today. After pleadings are complete, the Appellant is at liberty to approach the Trial Court with a request to take up the hearing of the

Notice of Motion.

5. In the circumstances, further adjudication of this period is not called for. Appeal from Order is disposed of in above terms. All contentions of the parties on the merits of the matter are expressly kept open.

6. The Civil Application would also not survive and is accordingly, disposed of.

[G.S. KULKARNI, J.]