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

**APPEAL FROM ORDER NO. 1039 OF 2016
WITH
CIVIL APPLICATION NO. 1316 OF 2016**

Mr. Shankar Javre Gawda .. Appellant
Vs.
Municipal Corporation of Gr. Mumbai & Anr. .. Respondents

Mr. Devdatta A. Sakhalkar for the Appellant.
Mrs. M. R. Bhoir for the Respondent-BMC.

CORAM : G. S. KULKARNI, J.
DATE : 14th DECEMBER, 2016.

P. C. :

1. Not on board. Taken on board on a praecipe as moved on behalf of the appellants.
2. After this appeal was heard for some time, learned counsel for the appellant submits that the grievance is that the respondent-Municipal Corporation had not filed a reply to the Notice of Motion and at the ad interim stage the Notice of Motion was rejected by the Trial Court. It is, therefore, submitted that at least to that extent the order may be interfered and Notice of Motion No. 3249 of 2016 be restored to file of the Court be heard after the replies filed by the Municipal Corporation and the other private defendant, namely, the landlord. The learned Trial Judge while hearing the Notice of Motion at the ad interim stage has rejected interim reliefs. I have perused the impugned order. I am of the opinion that

considering the reasons as recorded it would be in the interest of justice that the impugned order be considered as an order refusing ad interim reliefs. To this extent it needs to be interfered. Accordingly, the Notice of Motion is restored to the file of the City Civil Court, Borivali Division, Dindoshi, Mumbai, and be heard by the learned Trial Judge after replies are filed by the defendants.

3. The Appeal from Order is, accordingly, disposed of subject to the above observations, however, clarifying that the impugned order is in no manner disturbed except the same to be treated as an ad interim order.

4. In view of the disposal of the Appeal from Order, Civil Application No.1316 of 2016 does not survive and stands disposed of.

5. Needless to observe that the Notice of Motion be considered by the learned Trial Judge on its own merits without being influenced by the observations made in the impugned order and this order.

[G. S. KULKARNI, J.]