

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

**APPEAL FROM ORDER (ST.) NO.34174 OF 2015
along with
CIVIL APPLICATION (ST.) NO.34176 OF 2015
in
APPEAL FROM ORDER (ST.) NO.34174 OF 2015**

Anjay Motilal Ramnathkar .. Appellant/Applicant
Vs.
M/s.Suruchi Saree Mandir & Anr. .. Respondents

Mr.P.J. Thorat i/by Mr.Rohan P. Munj for the appellant/applicant.
Mr.Girish Kedia for the respondent nos.1 & 2.
Ms.Jethva for the respondent no.3.

CORAM : R.D. DHANUKA, J.
DATE : 6th January 2016

P.C.

. The appellant has impugned the order dated 26th October 2015 passed by the learned trial Judge refusing to grant ad-interim relief.

2. The defendant nos.1 and 2 have already filed their written statement before the learned trial Judge. It is submitted by the learned counsel for the defendants/respondent nos.1 and 2 that the written statement filed by the defendant nos.1 and 2 can be considered as affidavit-in-reply in the notice of motion. The plaintiff is at liberty to file rejoinder within a period of one week and serve a copy thereof upon the defendants' advocate simultaneously.

3. Learned trial Judge may make an endeavour to dispose of the notice of motion within three months from today including the issue of jurisdiction as raised by the defendant nos.1 and 2. It is made clear

that the issue of jurisdiction raised under Section 9 of the Code of Civil Procedure, 1908 shall be decided first before deciding the notice of motion.

4. Appeal from order is disposed of in aforesaid terms. In view of disposal of the appeal from order, civil application does not survive and the same is accordingly disposed of. No order as to costs.

R.D. DHANUKA, J.