

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO. 316 OF 2014
IN
NOTICE OF MOTION NO. 126 OF 2013
IN
SUIT NO. 60 OF 2013***

Bai Ratanbai & Behramji Kuka Co-operative
Housing Society Ltd. & Ors. ...Appellants
Versus
Dr. Aspi S. Golwala & Ors. ...Respondents

Mr. Sarosh Bharucha with Ms. Lara Jesani I/b M. Mulla Associates for the
Appellants

Mr. Sanjay Kothari with Ms. Pallavi Bali I/b Bali & Associates for the
Respondents

**CORAM : V. M. KANADE &
REVATI MOHITE DERE, JJ.
THURSDAY, 7TH JANUARY, 2016**

P.C. :

1. Heard learned Counsel appearing on behalf of the appellants and the learned Counsel appearing on behalf of the respondents.
2. The appeal can be conveniently disposed of by directing the learned Single Judge to decide the Notice of Motion and the preliminary objection which is raised under Section 9A of the Civil Procedure Code.

3. The ad-interim relief which has been granted in terms of prayer clauses (a) and (b) shall continue only till the pendency of the Motion. All observations made by the learned Single Judge are of a *prima facie* nature and the learned Single Judge to decide the preliminary issue and shall not be influenced by the observations made by the learned Single Judge since essentially the said observations are made at the ad-interim stage. All contentions of both the parties are kept open.

4. It is clarified that the Notice of Motion is not disposed of but has to be kept pending till the preliminary issue is decided. The learned Single Judge is requested to decide the preliminary issue as well as the Notice of Motion as expeditiously as possible and preferably within a period of 12 weeks from today. The appellant shall complete the pleadings within 4 weeks.

5. With these directions, the appeal is disposed of. Office is directed to clarify that the Motion is not disposed of by the impugned order. But will have to be decided along with the preliminary issue.

REVATI MOHITE DERE, J.

V. M. KANADE, J.