

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

**APPEAL FROM ORDER (ST.) NO. 7606 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 7607 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 7606 OF 2017**

Mr. Abdul Muthalif s/o Allabux & Ors. ... Appellants
V/s.
South Indian Noorul Islam
Sunnat Jamat Trust & Ors. ... Respondents

Mr. Vedchetan Patil for the Appellants.
Mr. R.A. Thorat i/b Ms. Vidya Khatu for Respondent Nos. 1 to 4, 6,
7.
Mr. Kamruddin, Respondent No.5, present in Court.

**CORAM : M.S. SONAK, J.
DATE : 29th MARCH, 2017.**

P.C. :

1 Heard learned counsel for the parties.

2 The challenge in this Appeal is to the order dated
03.03.2017 made by the learned Trial Judge declining ad-interim
reliefs to the appellants. In the impugned order, the learned Trial
Judge has made the following observations :-

*“In the present matter resolution is the subject
matter to see its legality. It would be consider
after the trial and trial only.”*

3 Obviously, the aforesaid observation is only prima facie. However, taking into consideration, the language employed by the learned Trial Judge, the apprehension expressed by the learned counsel for the appellants that the appellants' motion will not even be considered, is quite justified. Accordingly, it is clarified that the motion taken out by the appellants will have to be decided in accordance with law and on its own merits. In disposing of the Notice of Motion, it will be open to the learned Trial Judge to consider whether the relief supplied for is to be granted or not to be granted, taking into consideration, well settled parameters in relation to grant of interim reliefs.

4 The learned counsel for the appellants point out that hearing in the Notice of Motion has been adjourned to 06.06.2017. The learned Judge is requested to prepone the date so that the parties can be heard before 31.04.2017 and, thereafter, by 05.06.2017, the Motion itself can be disposed of within a period of two weeks thereafter and in any case latest by 15.06.2017. It is made clear that this Court has not made any observation in the merits of the matter, and therefore, all contentions of all the parties are left open for determination by the learned Trial Judge.

5 The Appeal is disposed of in the aforesaid terms. There shall be no order as to costs.

6 The Civil Application does not survive and the same is disposed of accordingly.

7 All concerned to act on the basis of authenticated copy of this order.

(M.S. SONAK, J.)