

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 864 OF 2015
WITH
CIVIL APPLICATION NO. 1059 OF 2015

Nerus P. Baptista .. Appellant/Plaintiff
vs.
The State of Maharashtra and ors. .. Respondents.

Mr. Charles M. D'Mello for the Appellant.
Mr. Y.Y. Dabke, Asst. Govt. Pleader for the Respondent- State.

CORAM : M. S. SONAK, J.
DATE : 10 FEBRUARY 2017.

P.C. :-

1] This appeal challenges the order dated 26 August 2014, by which, learned trial Judge has declined the ad-interim relief to the appellant-plaintiff.

2] Upon query by the court as to why the notice of motion has not been disposed of by now, learned counsel for the appellant has filed list of dates and proceedings before the trial court. From the same, it is evident that the notice of motion was heard on two occasions before different Presiding Officers. Before the matter could be heard, on most occasions, time was granted to the respondents-defendants to file reply. Some time was also granted to the appellant for filing rejoinder. Ultimately, the matter was taken up by Judge Shri. R.M. Khan. From the records, it is seen that this Presiding Officer has taken efforts to see that the notice of motion is argued and thereby, proceeds further.

3] The motion has now been argued and was posted for orders on 3 December 2016, 21 December 2016, 11 January 2017 and 2 February 2017. The matter is now posted for orders on 20 February 2017. There is no reason for this court to assume that the notice of motion will not be disposed of by that date. Learned counsel for the appellant also agrees that he has no reason to believe that the notice of motion will not be disposed of by that date.

4] Taking into consideration the aforesaid circumstances, it will not be appropriate to entertain the appeal against refusal of the ad-interim orders made on 26 August 2014. Instead, learned Judge is requested to positively dispose of the notice of motion by 20 February 2017, which is the date assigned by him for that purpose.

5] The appeal is disposed of in the aforesaid terms. The civil application does not survive and the same is also disposed of.

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

(M. S. SONAK, J.)

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