

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
APPEAL (L) NO. 133 OF 2017**

|                        |                     |
|------------------------|---------------------|
| <b>Necia Rebello</b>   | <b>..Appellant</b>  |
| <b>Vs.</b>             |                     |
| <b>Raynah Braganza</b> | <b>..Respondent</b> |

**WITH  
NOTICE OF MOTION NO.1550 OF 2017  
IN  
APPEAL (L) NO.133 OF 2017**

|                        |                     |
|------------------------|---------------------|
| <b>Necia Rebello</b>   | <b>..Applicant</b>  |
| <b>Vs.</b>             |                     |
| <b>Raynah Braganza</b> | <b>..Respondent</b> |

**Mr. D. R. Mishra a/w Mr. S. S. Pai for the Appellant / Applicant**  
**Mr. Denzil D'mello for the Respondent**

**CORAM :R. M. SAVANT, &  
SARANG V KOTWAL, JJ  
DATE : 28<sup>th</sup> NOVEMBER, 2017**

**P.C.**

1           The above Appeal is directed against the order dated 7-3-2017 passed by a Learned Single Judge of this Court. By the said order, the Appellant's/Defendant's evidence was closed as the Defendant had not remained present inspite of the order dated 20-3-2017 passed by the learned Single Judge for being cross-examined by the Plaintiff. Since the Learned Counsel appearing for the Appellant original Defendant had prayed for one final indulgence being shown to the Defendant, we had given such opportunity

to the Learned Counsel to take instructions from the Defendant who is in the United States of America as to the date and day on which she would remain present so as to facilitate her cross-examination which can then be completed in one stretch as also the evidence of the witness / witnesses that would be led by the Defendant,. The Learned Counsel appearing on behalf of the Appellant i.e. the original Defendant states that he has received an email from the Defendant by which she is communicated that the Defendant would be coming to India in the middle of next year for giving evidence.

2           In our view, the proceedings cannot be delayed at the behest of the Defendant so that she can lead her evidence as per her bidding. Already an opportunity was granted to her by the Learned Single Judge which she has not availed of. In the light of what has been stated by the Learned Counsel appearing for the Appellant, the order passed by the Learned Single Judge cannot be faulted with. The Appeal is accordingly dismissed.

3           In view of the dismissal of the above Appeal, the Notice of Motion No.1550 of 2017, does not survive and to accordingly stand disposed of.

**[SARANG V KOTWAL, J]**

**[R.M.SAVANT, J]**