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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.255 OF 2017

Vinayak R. Gawande & Ors.	...Applicants
V/s.	
The Naigaum Co-op. Hsg. Soc. Ltd.	...Respondent

Mr.Vaibhav Sugdhare with Mr.Sashant Yadav i/b M/s.K. Ashar & Co.
for the Applicants.

Mr.Jaydeep J. Thakkar for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 12TH SEPTEMBER, 2018

P.C. :-

1. By this civil revision application filed under section 115 of the Code of Civil Procedure, 1908, the applicants have impugned the order dated 30th November, 2016 passed by the learned Trial Judge rejecting the Notice of Motion No.2217 of 2013 filed under Order VII Rule 11(d) of the Code of Civil Procedure, 1908.

2. Mr.Thakkar, learned counsel appearing for the respondent (original plaintiff) has no objection if the issues which were raised by the applicants in the application filed under Order VII Rule 11(d) are tried by the learned Trial Judge as issues under Order XIV Rule 2 of the Code of Civil Procedure, 1908 without being influenced by the observations made and the conclusion drawn in the impugned order

dated 30th November, 2016. The statement is accepted.

3. The impugned order dated 30th November, 2016 is accordingly set aside. The learned Trial Court shall try the issues raised by the applicants in the said application under Order VII Rule 11(d) along with other issues under Order XIV Rule 2 without being influenced by the observations made and the conclusion drawn in the impugned order dated 30th November, 2016.

4. It is made clear that the notice of motion filed by the original plaintiff for interim relief which is pending in the suit, shall be proceeded with on its own merits.

5. The civil revision application is disposed of in aforesaid terms. There shall be no order as to costs.

Vasant
Anandrao Idhol

Digitally signed by Vasant
Anandrao Idhol
Date: 2018.09.14 11:10:58
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(R.D. DHANUKA, J.)