

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

APPEAL FROM ORDER NO. 155 OF 2018
WITH
CIVIL APPLICATION NO. 212 OF 2018
IN
APPEAL FROM ORDER NO. 155 OF 2018

Mr. Raj Manoharlal Ahuja & Anr. ..Applicant

v/s.

Mr. Anil Datta Rasalkar & Ors. ..Respondents

Mr. Dhakephalkar, Sr. Counsel a/w. Mr. Birendra Saraf, and Laxman Jain i/b. Yogesh Adhia for the Applicant/Appellant
Mr. Amarendra Mishra for the Respondent.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 19th MARCH, 2018.**

P.C.

1. The appellants herein have challenged the order dated 15.2.2018, whereby the learned Adhoc City Civil Court, Borivali Division, Dindoshi has granted ad-interim relief in terms of prayer clause (a) and (c) of Notice of Motion filed in S.C.Suit No. 180 of 2018, which reads as under:-

(a) That this Honourable Court be pleased to grant

Temporary Injunction against the defendants, their servants or agents or persons claiming through them, from creating any hindrance, obstruction or stopping the plaintiffs from using the said common passage or access to the suit plot and/or their respective galas in any manner, whatsoever

(c) That this Honourable Court be pleased to appoint a Court Commissioner to visit the suit plot and prepare report in respect of the access to the suit plot and/or the said estate and submit the same before this Honourable Court, for appropriate further order or direction.

2. The learned Counsels for the respective parties have submitted that pursuant to the Order, Court Commissioner has submitted report before the Court. Shri Dhakephalkar, learned Senior Counsel for the appellant and Shri Mishra, the learned Counsel for the respondent submit that the pleadings would be completed within a period of four weeks and that the appeal can be disposed of by directing the Trial Court to dispose of the notice of motion within 8 weeks and that till

such time the ad-interim relief shall continue to operate.

3. In view of the statements made by the learned Counsels for the appellant and the respondent, the appeal stands disposed of. Both parties are directed to complete their pleadings within four weeks. The learned Trial Judge is directed to make an endeavor to dispose of the Notice of Motion as expeditiously as possible, and in any event within 8 weeks from the date of this order.

4. Ad-interim relief granted by impugned order dated 15.2.2018 shall continue to operate till disposal of the Notice of Motion on merits.

5. It is made clear that this Court has not gone into the merits of the matter. All points and contentions are kept open.

6. Appeal stands disposed of accordingly.

7. Civil Application No.212 of 2018 stands disposed of in view of disposal of the appeal.

(ANUJA PRABHUDESSAI, J.)