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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER No. 816 OF 2015
WITH
CIVIL APPLICATION No. 995 OF 2015

Ramesh Mohanlal Solanki ... Appellant
Vs.
The Municipal Corporation of Gr. Mumbai ... Respondent

Mr. Sanjiv A. Sawant, for the Appellant.

Ms. Madhuri More, for the Respondent.

CORAM : V. M. DESHPANDE, J.

DATE : JUNE 25, 2018

ORAL JUDGMENT :-

1. Heard. **Admit.** Learned advocate Ms. Madhuri More waives notice for the Respondent. By consent of parties, appeal is taken up for final hearing forthwith.

2. Present appeal arises out of order passed by the learned Judge of the City Civil Court, Mumbai dated 5th March, 2015 in Notice of Motion No. 1690 of 2011 in L. C. Suit No. 1602 of 2011 whereby the learned Judge rejected notice of

motion and vacated the order of ad-interim injunction.

3. This Court on 3rd August, 2015 (Coram : K. K. Tated, J.) directed the parties to maintain status-quo. Learned counsel for the Appellant, on instructions, submits that affidavit in lieu of evidence is already filed on record in L.C. Suit No. 1602 of 2011 by the Appellant / plaintiff and he can be cross-examined, if desired, by the Respondent. In that view of the matter, appeal is disposed of in terms of the following order:

- (i) Impugned order dated 5th March, 2015 dismissing the Notice of Motion No. 1690 of 2011 is hereby confirmed;
- (ii) The learned Judge, on whose file L.C. Suit No. 1602 of 2011 is pending, shall dispose of the suit within six months from today, on merits and in accordance with law, as affidavit in lieu of evidence of plaintiff is already filed on record. Needless to state that while deciding the suit on merit, the learned Judge of the trial Court shall not get influenced by any of the

observations made by the said Court while dismissing the notice of motion;

- (iii) Appellant / original plaintiff shall not press for unnecessary adjournments and shall make himself available for cross-examination;
- (iv) Till suit is decided, ad-interim orders dated 14th July, 2015 and 3rd August, 2015 passed by this Court (Coram : K. K. Tated, J.) shall remain in operation;
- (v) Appellant is hereby directed not to make any sort of construction, alteration, repairs, modification in respect of the suit property;
- (vi) All pending civil applications filed in the appeal do not survive and are accordingly disposed of.

Sd/-
[V. M. DESHPANDE, J.]

Vinayak Halemath