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

APPEAL FROM ORDER (ST) NO.12756 OF 2018

Dindoshi Vrindavan Co-operative Housing
Society Ltd. ... Appellant.

V/s.
M/s Karan Gropup Builders
and Developers ... Respondents

Mr. Atul Damale, Senior Advocate a/w Mr. Satyjajeet
Shirke and Mr. Omkar Mane, i/by Uday P. Warunjikar
for the appellant.

Mr. Rakwesh D. Kumar a/w Mr. Manoj S. Singh i/by
MKS Legal Associates, for respondent Nos. 1 & 2.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 8th OCTOBER, 2018.

P.C. :

1] Heard learned counsel for the appellant and respondents.

2] This appeal is preferred challenging the order dated 27th
October, 2017, passed by the City Civil Court, Mumbai, thereby
granting the order of ad-interim relief, restraining respondent No.2,
that is preset appellant, from carrying out any construction at the
suit site till next date.

3] While passing the said order, the trial Court has kept
all the points open about the preliminary objection. Therefore, the
Notice of Motion is yet pending and the trial Court has kept all the

issues open to be decided.

4] By way of additional affidavit filed in this Court, learned counsel for appellant has brought on record the subsequent developments including the ad-interim order of interim injunction dated 15th September, 2018, passed by the trial Court in the Draft Notice of Motion in L.C.Suit No.2475 of 2018.

5] In my considered opinion, in view of this subsequent development and considering that the order impugned in this appeal is only of ad-interim nature, it would be appropriate if the trial Court is directed to decide the Notice of Motion itself, instead of this Court entering into the merits of the matter.

6] Hence the appeal stands dismissed with request to the trial Court to decide the Notice of Motion as expeditiously as possible.

[DR.SHALINI PHANSALKAR-JOSHI, J.]