

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.18 OF 2017
WITH
CIVIL APPLICATION NO.20 OF 2017
IN
APPEAL FROM ORDER NO.18 OF 2017

Mr. Sayyed Nazim	...Appellant
Versus	
State of Maharashtra	
Thr.Govt. Pleader & Ors.	...Respondents

WITH
CIVIL APPLICATION NO.1048 OF 2017
IN
APPEAL FROM ORDER NO.18 OF 2017

Mr. Pramod Suryavanshi	...Applicant
Versus	
Mr. Sayyed Nazim	...Respondent

Mr. Navin Tiwari for the Appellant.
Mr. A.R. Patil, AGP for the Respondent State.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 18TH SEPTEMBER, 2018.

P.C. :

1. This appeal is preferred against the order dated 01.12.2014 passed by the City Civil Court, Mumbai, hereby granting ad-interim relief in terms of prayer clause (a) in Notice of Motion filed in Short Cause Suit No.3198/2014.
2. It is submitted by the learned counsel for the appellant that the

appellant was not made a party to the suit despite he being very much concerned in respect of the suit premises and therefore, he is aggrieved by the order passed by the Trial Court.

3. In my considered opinion, in this situation, it would be proper to give an opportunity to the appellant to withdraw this Appeal from Order and file an application before the Trial Court to implead him in the suit, so that the Notice of Motion, which is still pending before the Trial Court can be decided depending upon the decision on his application for impleadment.

4. Learned counsel for the appellant fairly concedes that he would withdraw this appeal with liberty to file before the Trial Court for impleadment of the party in the suit.

5. The Appeal, therefore, needs to be disposed of with liberty as sought.

6. If any such application is filed by the appellant for his impleadment before the Trial Court, the Trial Court shall decide the same on its own merit without being influenced of any of the order passed by this Court.

7. In view of disposal of the Appeal, all the pending applications in Appeal from Order become infructuous and disposed off accordingly.

[DR. SHALINI PHANSALKAR-JOSHI, J.]