

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER No. 1099 OF 2015
WITH
CIVIL APPLICATION No. 1181 OF 2016
IN
APPEAL FROM ORDER No. 1099 OF 2015**

Shantidevi Jhunjhunwala .
(since deceased) through legal heirs
Mr. Kishorchandra S. Jhunjhunwala & Ors. ...Appellants

Versus

Panorama Co-operative Housing Society
Limited & Anr. ...Respondents

.....

Mr.J.S.Kini i/b. Mr.Rajiv Jadhav for the Appellants.
Mr. R.S.Tripathi for Respondent No.1.

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CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **FEBRUARY 02, 2018**

P.C.:

1. This Appeal from Order is directed against the order dated 31.07.2015 passed by the learned Judge, City Civil Court, Mumbai thereby refusing to recall the order dated 14.08.2014. By the order dated 14.08.2014, the learned Judge of the trial Court has partly allowed the Notice of Motion No. 2769 of 2006 and appointed the Court Commissioner to carry out the work as prayed. This Appeal is

filed under Order XLIII Rule 1 of the Code of Civil Procedure, 1908.

2. The learned Counsel for respondent no.1 has raised an objection on the maintainability of this Appeal from Order.

3. In view of the above, such order is not appealable as per the list given under Order XLIII Rule 1 of the CPC. Hence, this Appeal is not maintainable. The objection of maintainability sustains.

4. The learned Counsel for the appellants prays that interim stay granted by this Court to the impugned order be continued, as he wants to take out appropriate proceedings.

5. Interim stay granted by this Court is continued till 16th February, 2018. No further extension of time will be granted.

6. With this, Appeal from Order is disposed of. Civil Application does not survive and the same is accordingly disposed of.

7. The trial Court to proceed with the mater.

(MRIDULA BHATKAR, J.)