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

**APPEAL FROM ORDER (ST) NO. 35943 OF 2017
WITH
CIVIL APPLICATION (ST) NO.35945 OF 2017**

Chandrkant Mahadik and ors ... Appellants.
V/s.

The Municipal Corporation of Greater
Mumbai and ors ... Respondents

Mr. Nikhil Mengde, for the Appellants.
Mrs. Madhuri More, for respondent corporation.
Mr. Pramodkumar I/by Pramodkumar & Co., for
respondent No.3.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 22nd JANUARY, 2019.

P.C. :

1] Learned counsel for respondent makes statement at bar that as per order dated 21st December, 2017 passed by this Court, he had already filed Chamber Summons to make the owner of the property as party to the suit. The said Chamber Summons is pending. Learned counsel for the appellant submits that he has not yet been served with the notice of the Chamber Summons Moreover, it is noticed that the appeal is against the order of refusal of ad-interim relief. The Notice of Motion is yet pending before the trial Court.

2] In view thereof, it would just and proper to direct the trial

Court to decide the Notice of Motion itself after deciding the Chamber Summons. The appeal, therefore, stands disposed off as dismissed.

3] The trial Court to decide the Notice of Motion as expeditiously as possible.

4] Learned counsel for respondent No.3 submits that there are other co-owners of the suit property. Learned counsel for the appellant to take note of the same to make them parties

5] As the order of interim relief is not continued till date, there is no question of extending the same.

6] In view of dismissal of Appeal itself, pending Civil Application therein no more survives and the same is disposed off accordingly.

[DR.SHALINI PHANSALKAR-JOSHI, J.]