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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 20066 OF 2022
IN
WRIT PETITION NO. 12053 OF 2022**

Nareshkumar Chhaganlal Rathod	 Applicant.
IN	
Nareshkumar Chhaganlal Rathod	 Petitioner (Original Appellant)
v/S	
Messrs Haribhai B. Desai and Ors.	 Respondents.

Mr. Nareshkumar C. Rathod, Applicant in person, present.
 Ms. Naziya Khan i/b Wadia Ghandy & Co. for Respondent Nos. 1 to 3.
 Ms. Radha Bhandari for Respondent Nos. 4 and 5.

CORAM: NITIN W. SAMBRE, J.

DATE: JANUARY 30, 2023

P.C.:-

1] Present Application is taken out by the Petitioner in Writ Petition No.12053 of 2022. Prayer clause (a) of the Application reads thus:-

“a. This Hon’ble be pleased to stay the proceeding pending before Appellate Court Room No.41 of the Small Causes Court Bandra at Mumbai In E. Appeal No.89 of 2022 In Obstructionist Notice NO. 17 OF 2013 IN Execution Application No. 10 OF 2013 IN T.E. & R Suit No.94/106 OF 2001 till disposal of the

Suit No.1829 of 2022 filed before City Civil Court Dindoshi Branch, At Mumbai and modify the order dated 12/10/2022 passed by the Hon'ble Justice Shri Nitin W. Sambre.”

2] It is the claim of the party in person that his suit wherein title of the Respondent(s) is denied is pending consideration which will have direct impact over hearing of the Appeal i.e. E. Appeal No.89 of 2022 which is expedited by this Court. According to him, it is necessary till decision of the suit to stay further hearing in the Appeal.

3] Fact remains that such issue was never canvassed before this Court when Writ Petition was decided on 12/10/2022. Apart from above, such issue was also not canvassed in pending Appeal.

4] That being so, there is no question of considering and granting prayer of the Petitioner made in the Application taken out in decided Petition.

5] Application moved is completely misdirected and same is accordingly rejected. However, this will not preclude the Applicant from moving before the lower Appellate Court which prayer be decided in accordance with law.

[NITIN W. SAMBRE, J.]