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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 530 OF 2019
WITH
INTERIM APPLICATION NO. 15029 OF 2024
WITH
CIVIL APPLICATION NO. 605 OF 2019**

Shri Suryankant H. Furia ... Appellant/Applicant
vs.

Mulund Vimal Vihar Co-operative ... Respondents
Housing Society Ltd and Ors

Mr. Pradeep P. Thorat i/b. Vasim Siddiqui a/w. Ms. Priyanka Acharya
for Appellant.

Ms. Neeta Jadhav i/b. Ms. Komal Punjabi for Respondent-BMC.

Mr. Karl Tamboly a/w. Ms. Shoma Maitra and Mr. Nipeksh Arvind i/b.
Wadia Ghandy and Co. for Respondent No.1 and 2.

CORAM : GAURI GODSE, J.

DATED : 6th MAY 2025

ORDER:

1. This appeal challenges the order passed under Order VII Rule 10 of Civil Procedure Code, 1908 for returning plaint to be presented before this court.

2. Learned counsels for the parties agreed that in view of the increase in the pecuniary jurisdiction of the City Civil Court,

irrespective of the objection on the valuation of the suit, the same will lie before the City Civil Court.

3. Learned counsel for respondents nos. 1 and 2, therefore on instructions, seeks leave to withdraw Notice of Motion No. 2610 of 2018 with liberty to file appropriate application to agitate their grievances regarding under valuation of the suit. Leave granted with liberty as prayed.

4. In view of the withdrawal of Notice of Motion No. 2610 of 2018, the impugned order dated 11th March 2019, would not survive. Notice of Motion No. 2610 of 2018 in Long Cause Suit No. 1197 of 2017 is disposed of as withdrawn. Hence, impugned order dated 11th March 2019 passed by the City Civil Court in Notice of Motion No. 2610 of 2018 in Long Cause Suit No. 1197 of 2017 is quashed and set aside. Hence, the appeal is disposed of by passing the following order:

I) The impugned order dated 11th March 2019 passed in Notice of Motion No. 2610 of 2018 in Long Cause Suit No. 1197 of 2017 is quashed and set aside.

II) Respondent Nos. 1 and 2 are at liberty to file appropriate application to agitate their grievances regarding under valuation of the suit. If the application is filed, the same to be

decided on its own merits, uninfluenced by this impugned order or this order.

III) The rival contentions of all parties on merits are kept open. The appeal is disposed of in the aforesaid terms.

5. In view of disposal of the appeal, the pending applications are disposed of as infructuous.

(GAURI GODSE, J.)