

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

**APPEAL FROM ORDER NO. 469 OF 2015
WITH
CIVIL APPLICATION NO. 603 OF 2015**

Mr. Prakash Haria & Ors.	... Appellants
V/s.	
Shri. Subhash Jain & Ors.	... Respondents

Mr. G. T. Kanchanpurkar for the appellant.
Mrs. M.R. Bhoir for the respondent/BMC.

**CORAM : K. K. TATED, J.
DATED : 08/04/2015.**

PC.:

. Not on board. At the request of Advocate for the appellant, matter is taken on board for urgent orders.

2 Heard learned Counsel for the parties.

3 This appeal is preferred by plaintiffs challenging the order dated 13.03.2015 passed by Bombay City Civil Court at Bombay in draft Notice of Motion in L.C. suit No. 704 of 2015 declined to grant ad-interim relief.

4 In the present proceeding, initially the corporation issued notice under Section 354 A of M.M.C. Act dated 13.02.2014. That time, structural Engineer landlord informed the plaintiffs by letter dated 10.06.2014 that the building is in dangerous condition and need to be vacated. That notice was challenged by the plaintiffs in L.C. Suit No.

704 of 2015. They preferred Notice of Motion for ad-interim relief. That was refused. Hence, present Appeal from Order.

5 The learned Counsel for the appellant submits that the Trial Court has not considered the report of structural Engineer submitted by them in respect of suit building. He submits that it is specifically stated in the said report that building can be repaired so that they can stay for 5 to 6 years. He submits that the Trial Court relied on structural report submitted by owner of the suit premises and report submitted by the Engineers of respondent corporation. He submits that they have good chance of success in the present proceeding. Hence, this Hon'ble Court be pleased to restrained respondents from taking any action pursuant to the notice under Section 354A of MMC Act dated 13.02.2014.

6 On the other hand, the learned Counsel Mrs. Bhoir appearing on behalf of respondent corporation vehemently opposed the present Appeal from Order. She submits that suit structure is in dilapidated condition. She submits that pursuant to the order passed by the Trial Court, their officer visited the suit premises along with Engineers. She submits that it is specifically stated by the Engineer that building is in dilapidated condition and therefore, it is required to be pulling down.

7 I heard both the sides at length. It is to be noted that in the present proceeding the structural Engineer by letter dated 10.06.2014 informed to the plaintiffs that building was in dangerous condition and needs to be vacated. At the same time, corporation also issued notice under Section 354A of M.M.C. Act dated 13.02.2014 informing

plaintiffs that the suit structure is in dilapidated condition. The Trial Court in paragraphs 4 and 5 considered the structural report submitted by the owner as well as report of Corporation. The Trial Court specifically recorded that the suit structures are in C-1 category and the same required to be pulled down immediately after vacating.

8 Considering the reasons disclosed by the Trial Court in paragraphs 4 & 5 of the impugned order, I do not find any reason to interfere in the present matter granting any ad-interim relief in favour of the plaintiffs.

9 Hence, Appeal from Order stands rejected.

10 In view of rejection of Appeal from Order, nothing survives in the Civil Application. Hence, Civil Application is dismissed as infructuous.

(K.K.TATED, J.)