

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

**APPEAL FROM ORDER NO.517 OF 2015
WITH
CIVIL APPLICATION NO.656 OF 2015**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.Bholaprasad Sukhadeo Shukla for the
appellant
Mrs.M.R.Bhoir for the BMC

CORAM : K.K.TATED, J.
DATED : 23/04/2015

PC:

- 1 Not on board. At the request of Advocate for the appellant, matter is taken on board for urgent orders.
- 2 The present Appeal from Order is filed by the plaintiff challenging the order dated 8.4.2015 passed by Bombay City Civil Court at Bombay in draft Notice of Motion in L.C.Suit No.889 of 2015 declining the grant of ad-interim relief.
- 3 The learned counsel for the appellant submits that in the present proceeding, respondent Corporation issued notice u/s.354A of the Mumbai Municipal Corporation Act dated 24.3.2015 directing plaintiff to remove unauthorised construction of IInd floor with bricks masonry

walls and A.C.Sheet roof without permission from the Competent Authority at House No.123, Opp.Shivsena Shakha, Worli, Koliwada, Worli, Mumbai 400 030. He submits that immediately thereafter they replied to the said notice on 31.3.2015. He submits that during the trial of the present proceeding in Trial Court respondent Corporation passed order on 1.4.2015. Hence, appellant preferred Chamber Summons for placing on record subsequent documents i.e. order dt.1.4.2015 passed by designated officer of Corporation. He submits that till today the respondent Corporation has not filed their affidavit in reply either in Notice of Motion or in Chamber Summons. He submits that let the Corporation file their affidavit in reply in Notice of Motion as well as Chamber Summons and Trial Court to hear Notice of Motion on its own merits. He submits that he received instructions from her client to withdraw the present Appeal from Order. Hence, following order:

- a Appeal from Order as well as Civil Application stands dismissed as withdrawn.
- b Respondent Corporation is directed to file their affidavit in reply in Notice of Motion as well as in Chamber Summons on or before 19.6.2015.

c Liberty granted to the appellant to file their Rejoinder if any on or before 26.6.2015 and serve copy on the other side.

d Trial Court to decide Notice of Motion as well as Chamber Summons as early as possible.

(K.K.TATED, J.)