

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

**APPEAL FROM ORDER NO.490 OF 2008
WITH
CIVIL APPLICATION NO.568 OF 2008
IN
APPEAL FROM ORDER NO.490 OF 2008**

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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Ms.Nisha Shah with Mr.Vijay Upadhyay i/b
M/s.Bina Rao and Co. for the appellant

Mrs.M.R.Bhoir for the respondent no.1

CORAM : K.K.TATED, J.
DATED : 22/01/2015

PC:

- 1 Heard the learned counsel for the appellant.
- 2 By this Appeal from Order the original defendant no.2 challenges the order dated 19.4.08 passed by Bombay City Civil Court at Bombay in Notice of Motion No.509 of 2008 in L.C.Suit No.327 of 2008 restraining defendants from executing Notice dated 27.12.2007 issued by Corporation and order dated 13.2.2008 passed by Assistant Commissioner, K/West Ward against the respondent no.2 plaintiff.
- 3 This court by order dated 7.10.08 admitted

the Appeal from Order and passed the following order:

“The only interim relief granted are that respondent shall not carry out any further construction on the suit premises without the leave of the court and all other necessary authorities. Mr.Borulkar the learned counsel for the respondent State that no unauthorized work has been carried out.”

4 The Appellant filed their additional affidavit dated 17.1.2015 stating that inspite of the order dated 7.10.2008 passed by this court, the respondent no.2 carried out further construction.

5 After hearing for some time, the learned counsel for the appellant submits that they have no objection if the interim protection granted by this court on 7.10.2008 to continue till the hearing and final disposal of L.C.Suit No.327 of 2008 with liberty to the appellant to take out appropriate proceedings against respondent no.2 for carrying out unauthorized construction if any.

6 In view of above mentioned facts, appellant is permitted to withdraw the present Appeal from Order with liberty as prayed. The learned counsel for the appellant to that effect has given in writing on Farad in the present proceedings.

7 Appeal from Order is dismissed as withdrawn with liberty as prayed. In view thereof, Civil Application does not survive. The same is also disposed of as infructuous.

(K.K.TATED, J.)