

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

**CIVIL APPLICATION NO. 1017 OF 2014
IN
APPEAL FROM ORDER NO. 839 OF 2014**

Arafat Co-operative Housing Society Ltd. ..Applicant

Vs.

Municipal Corporation of Greater Mumbai and Ors. ..Respondents

....

Mr. Pratap Singh, Advocate for Applicant.

Mr. Vinod Mahadik, Advocate for Respondent Nos.1 and 2.

Mr. Pradeep Bhor, Advocate i/b Kuldeep S. Patil, Advocate for Respondent No.3.

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CORAM : K.K. TATED, J.

DATED : 24 FEBRUARY 2015

P.C.:

1. Heard learned counsel for parties.
2. Though the Respondent No.4 is duly served, no one appeared on behalf of him when the matter called out.
3. This appeal is preferred by the original plaintiff challenging the order dated 2 May 2014 passed by the City Civil Court, Mumbai in Notice of Motion No. 3064/2013 declining order of injunction restraining Defendant No.5 from carrying out any construction of Balwadi upon City Survey No.62 (Survey No.322/1) admeasuring 3674 Sq. Mtrs. situated at village Kurla, Tal. Kurla, Shanti Nagar, C.S.T. Road, Kurla (West),

Mumbai. NOC granted by Defendant No.2 and 3 for Balwadi on the suit premises i.e. CTS No. 62. It is the case of the plaintiff that they are owner and in possession of CTS No. 62 at village Kurla. He submits that Defendant Nos. 2 and 3 granted NCC in favour of Defendant No.4 for carrying out construction of Balwadi on CTS No. 55 and 56 of Kurla but at the time of allotting the plot, the same was allotted from CTS 62.

4. This Court by order dated 16 June 2014 directed TLR, Kurla to measure the CTS Nos. 55, 56 and 62 and demark in the map where MMRDA by their letter dated 14 May 2013 granted NOC for construction of Balwadi near Shanti Nagar, S.G. Barve Nagar, Kurla (W). Pursuant to the said order, TLR submitted its report dated 30 October 2014 alongwith the map. It is clear from the map that MMRDA has granted NOC for construction of Balwadi in the land from CTS No. 62. Considering this fact, following order is passed:

(A) The respondents are restrained by an order of injunction from carrying out any construction activity of Balwadi in the piece of land from CTS No. 62 of Kurla as shown in map submitted by TLR, till the hearing of Appeal from Order.

(B) In view of this order, Civil Application No. 1017/2014 is disposed of.

[K.K. TATED, J.]