

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

**APPEAL FROM ORDER NO. 788 OF 2014
WITH
CIVIL APPLICATION NO. 954 OF 2014**

Mansaram Kashiram Khaire ... Appellant

V/s.

M.C.G.M. & Ors. ... Respondents

Mr. Omprakash Pandey for the appellant.
Mr. A. K. Nandanwar for the respondents.

**CORAM : K. K. TATED, J.
DATED : 31/03/2015.**

PC.:

. Heard learned Counsel for the parties.

2 By this Appeal from Order, the plaintiff challenges the order dated 27.06.2014 passed by the Bombay City Civil Court, Mumbai in Notice of Motion no. 1434 of 2014 rejecting plaintiff's Notice of Motion.

3 In Notice of Motion the plaintiff claimed following reliefs:

a) It is declared by this Hon'ble Court that the impugned notice under Section 314 of the MMC Act being Exhibit 'C' to the plaint issued by the Defendant is illegal, bad in law, unconstitutional and the same is not executable and/or enforceable and liable to be set aside and/or quashed and same is not binding upon the Plaintiff as well as to the suit premises.

b) That the defendants be ordered, decreed and directed to provide alternate commercial gala to the plaintiff in

lieu of censused structure/Photopass structure forthwith within the same locality, area and vicinity to enable the plaintiff to carry on his business and in the alternative thereto, this Hon'ble Court be pleased to allow the plaintiff to to reconstruct the suit premises in its original position as it was in existence before the illegal demolition conducted by the defendants on 08.04.2013 and maintain status quo ante.

c) That by mandatory order and injunction of this Hon'ble Court, the defendant be ordered and directed to forthwith reconstruct the suit premises in its original position as it was in existence prior to its legal demolition dated 08.04.2013 and restore back it to its original position or in the alternative and plaintiff be directed to reconstruct the suit premises in its original position as it was before the illegal demolition conducted by the defendants on 08.04.2013 and maintain status quo ante.

d) That ad-interim and interim reliefs in terms of prayer clause (a) to (c) be granted.

e) That the cost of the application may be provided for;

f) That such other and further reliefs may be granted.”

4 The learned counsel for the plaintiff submits that though status quo order was passed by the Trial Court on 06.04.2013, the respondent corporation demolished his suit structure on 08.04.2014 in view of notice dated 05.04.2013 under Section 314 of M.M.C. Act. He submits that in view of subsequent development, this Hon'ble Court be pleased to expedite the hearing of L.C. Suit No. 1504 of 2013.

5 Considering the submissions made by the learned Counsel for the appellant/plaintiff and in view of subsequent development that suit premises was demolished by the Corporation on 08.04.2013, the following order is passed.

ORDER

- i) Hearing of L.C. Suit no. 1504 of 2013 is expedited.
- ii) Respondent/Corporation to file their written statement and serve copy on other side within four weeks from today.
- iii) This Court expects that Trial Court to decide L.C. Suit no. 1504 of 2013 as early as possible, but in any case, on or before 31.12.2015.
- iv) In view of above mentioned order, the learned Counsel for the appellant seeks liberty to withdraw the present Appeal from Order as well as Civil Application. Same is allowed.
- v) Appeal from Order as well as Civil Application stand dismissed as withdrawn.

(K.K.TATED, J.)