

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**FIRST APPEAL NO. 1008 OF 2015
WITH
CIVIL APPLICATION NO. 2979 OF 2015 IN F.A. NO. 1008 OF 2015**

Smt. Sulochana wd/o. Ganpat Suware & Anr. ... Appellants/Applicants
Vs.

The Municipal Corporation of Greater
Mumbai

... Respondent

Mr. M.A. Chaudhari, Advocate for the appellants/applicants.

Mrs. Mamta Bhoir, Advocate for the respondent/BMC.

Mr. Sushil K. Padwal, Jr. Engineer, 'S' Ward (Building & Factory) present.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE : 27th November, 2015

P.C.:

In this Appeal, the judgment and order dated 10th August, 2015 dismissing the L.C. Suit No. 354 of 2011 was passed by the learned Judge of the City Civil Court, Greater Mumbai. At the time of admission of this Appeal, it is found that the notice dated 31st January, 2011 issued by the Corporation is under challenge in the suit. The notice was given by the Corporation for unauthorized construction and has called upon the appellants to produce the documents in respect of the said work.

2. On query, it is submitted by the learned counsel for the Corporation that no order was passed by the concerned authorized officer in the Corporation.

3. In view of this, it appears that this case comes under due process of law which is required to be followed by the Corporation. Hence, the Appeal is allowed in respect of the said notice dated 31st January, 2011 and the protection is granted against the said notice. It is made clear that the Corporation is at liberty to give further notice as per the law and comply with it following due process of law in respect of the suit structure. The order passed in this Appeal shall not come in the way of Corporation.

4. First Appeal is disposed of. Civil Application is also accordingly disposed of.

(MRIDULA BHATKAR, J.)