

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST) NO.26475 OF 2015
ALONGWITH
CIVIL APPLICATION (L) NO.26477 OF 2015

Shridhar Vasant Kulkarni	...	Appellant
Vs.		
Mumbai Municipal Corporation & Ors.	...	Respondents

Ajit S Karwande, Adv. for appellant.
A V Diwate, Adv. for respondent in BMC.

CORAM : MRS. ROSHAN DALVI, J.
DATE : 16th October, 2015.

P.C. :

1. The injunction sought by the appellant / plaintiff is in respect of five trees. Public notice has been given and the plaintiff has been heard. The order which was passed was not served upon the plaintiff. The plaintiff sued for protection of the trees during the pendency of the suit. The order has been served. An appeal lies therefrom under Section 14(1) of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (Trees Act). The plaintiff must, therefore, file the appeal. The plaintiff is ready to file the appeal. However the plaintiff claims protection of these trees pending the appeal. The trees deserve to be protected as due process commenced for felling has not been completed.

2. Hence following order :

1. The plaintiff shall file appeal against the order dated 7th September, 2015 within 15 days from today. The appeal shall be heard in accordance with law under the Trees Act.
2. The order passed in the appeal shall be served upon the plaintiff.

3. The respondent shall not fall any of the 5 tress which are sought to be protected by the plaintiff until two weeks from the date of the order.
4. The Appeal from Order as also Civil Application are disposed of accordingly.

(ROSHAN DALVI, J.)