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

**APPEAL FROM ORDER (ST) NO.28616 OF 2015
WITH
CIVIL APPLICATION NO. 28617 OF 2015
IN
APPEAL FROM ORDER (ST) NO.28616 OF 2015**

Ramesh Ramlaudan Jaiswal ...Appellant/Orig.Plaintiff
Vs.
Municipal Corporation of Greater Mumbai ...Respondents/Orig.Dfdt

Mr. Shrishail Sakhare for the Appellant
Mr. A.V. Diwate for the Respondent in BMC

**CORAM : MRS. ROSHAN DALVI, J.
DATED : 19TH OCTOBER, 2015**

P.C. :

Rule. Returnable forthwith.

1. The appellant / plaintiff in the Bombay City Civil Court suit sought to protect a structure censused under No. RXC 251/1 stated to be admeasuring 30ft x 30 ft of description mentioned in the plaint and at the address mentioned in the plaint. The census card has not been produced. The documents produced by the plaintiff show one electricity bill for room No.1 at Chunabhatti in the name of the plaintiff, one receipt of the election office showing application of 4 members of the plaintiff's family, one letter issued by the

Tahasildar (ENC) Borivali zone dated 20th October, 1978 for the structure mentioned therein, a copy of a slip of the application form of the plaintiff dated 19th July, 2000 and certain plan of the municipality for an open plot of land. None of these documents shows any censused structure. Consequently plaintiff's case of protection of censused structure as stated by the plaintiff is not made out.

2. The respondent / defendant municipality contended the notice was issued to the structure which was occupied by the plaintiff's father and due legal process has been filed.
3. The plaintiff appears to have passed off this structure along with his father's structure which has since been demolished. The plaintiff has not made out any separate case to prima facie show the existence of the suit structure claimed by him.
4. The learned Judge of the Bombay City Civil Court has considered the plaintiff's application for protection of the structure on the mere ground that it was to be demolished without following due legal process. The learned Judge has also considered the due legal process followed for the structure of the plaintiff's father which was sought to be confused with the plaintiff's structure.

5. The learned Judge has observed that the structures are one and the same and due legal process has been followed. The order cannot be faulted.
6. The appeal is dismissed. The civil application is disposed off accordingly.

(ROSHAN DALVI, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed Judgment /order.

CAAST.28617/2015(1)