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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO.30887 OF 2015
WITH
CIVIL APPLICATION (STAMP) NO.30889 OF 2015

Samant G. Gohil ...Appellant
V/s.
The Municipal Municipal Corpn. Of Gr.Bombay & Anr. ...Respondents

Mr.Girish Godbole i/b Mr.Rajendra Yadav for the Appellant.

Mr.J. Reis, Senior Counsel with Mr.a.V.Diwate for the Respondent –
B.M.C.

CORAM : R.D. DHANUKA, J.
DATE : 8TH DECEMBER, 2015.

P.C. :-

1. Learned counsel for both the parties have agreed that no reasons shall be recorded by this Court while disposing of the appeal from order and the civil application. No reasons are accordingly recorded.

2. The appellant is permitted to make a representation to the Assistant Municipal Commissioner, G/South Ward, Mumbai within a period of ten days from today and shall annexe all the relevant documents which he proposes to rely upon to prove the existence of the suit structure prior to 1st January, 2000. Upon receipt of such representation by the Assistant Municipal Commissioner, G/South

Ward, Mumbai, he shall decide such representation within ten days thereof, pass a speaking order and shall communicate the same to the appellant immediately upon passing of such order.

3. It is made clear that if the Municipal Corporation has already provided any alternate accommodation to Mohd. Mehboob Mustafa in respect of the same suit structure, the appellant would not be eligible for getting any permanent alternate accommodation in respect of the said suit structure. If it is found by the Municipal Corporation that Mohd. Mehboob Mustafa has already been provided any alternate accommodation in lieu of the suit structure, the same shall be communicated to the appellant by the Municipal Corporation.

4. It is made clear that if the order passed by the Assistant Municipal Commissioner, G/South Ward, Mumbai is adverse to the appellant herein, the suit structure shall not be demolished for a period of five days from the date of communication of the said decision by the Assistant Municipal Commissioner, G/South Ward, Mumbai to the appellant herein.

5. It is made clear that the Assistant Municipal Commissioner, G/South Ward, Mumbai shall re-consider the documents produced by the appellant and shall not be influenced by the impugned order passed by the learned trial Judge or by the impugned decision taken by the Municipal Corporation rejecting the

claim of the appellant for alternate accommodation and shall decide the matter in accordance with law.

6. This Court has not expressed any views on the merits of the matter. All the contentions of the parties are kept open.

7. The appeal from order is accordingly disposed of in aforesaid terms.

8. In view of disposal of the appeal from order, the civil application does not survive and is accordingly disposed of. No order as to costs.

(R.D. DHANUKA, J.)