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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO.33332 OF 2015
WITH
CIVIL APPLICATION (STAMP) NO.33333 OF 2015
IN
APPEAL FROM ORDER (STAMP) NO.33332 OF 2015

Mohammed Azam Tanki & Ors.	...Appellants
V/s.	
The Municipal Corpn. Of Gr. Mumbai	...Respondent

Mr.Yusuf Majra i/b Yusuf & Associates for the Appellants.

Mr.A.V. Diwate for the Respondent – B.M.C.

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

P.C. :-

1. Admit. Learned counsel for the respondent waives service.
2. During the pendency of this appeal, the respondent shall not remove or pull down, demolish or disturb the suit premises pursuant to the show cause notice dated 11th January, 2004 and the order dated 18th February, 2004. It is made clear that this Court has not stayed the trial of the suit filed by the plaintiff. The learned trial Judge is directed to proceed with the trial if the same is ready.
3. I have perused the civil application with the assistance of learned counsel for the applicant and I am of the *prima-facie* view that

the applicant had produced certain plans before the learned trial Judge in support of the plea of the applicant that the applicant had applied for permission for carrying out repairs of the suit structure prior to 1962. It is made clear that the observations made in this order are *prima-facie*. The learned trial Judge shall dispose of the suit on its own merits after evidence is recorded by the trial Court.

4. The civil application is accordingly disposed of in aforesaid terms. No order as to costs.

(R.D. DHANUKA, J.)