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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO.33351 OF 2015
WITH
CIVIL APPLICATION (STAMP) NO.33352 OF 2015

Niyaj A. Hussain	...Appellant
V/s.	
The Municipal Corpn. Of Gr. Mumbai & Ors.	...Respondents

Mr.S.P. Srivastava for the Appellant.
Mr.A.V. Diwate for the Respondent No.1.
Mr.Salik Khan for the Respondent No.3.

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

P.C. :-

1. By this appeal from order the appellant has impugned the order passed by the learned trial Judge dismissing the notice of motion filed by the appellant (original plaintiff). The appellant had filed a suit before the Bombay City Civil Court inter-alia praying for declaration that the defendant nos.1 and 2 are not entitled to give any sanction or permission to the defendant no.3 to carry out any construction activity in the suit property and for various reliefs.

2. It is not in dispute that various actions were taken by the Municipal Corporation under the provisions of the Maharashtra Slum Act (I.C. & R), Act, 1971. The appellant has already filed the

proceedings by invoking the provisions of Maharashtra Slum Act (I.C. & R), Act, 1971. Learned counsel for the appellant states that the said appeal is pending.

3. In my prima-facie view the civil suit filed by the appellant was itself barred under section 42 of Maharashtra Slum Act (I.C. & R), Act, 1971. The learned trial Judge rejected the notice of motion on the ground that the plaintiff was declared as in-eligible under the slum rehabilitation scheme. The appellant has already filed an appeal under the Maharashtra Slum Act (I.C. & R), Act, 1971. I am thus not inclined to interfere with the order passed by the learned trial Judge, dismissing the notice of motion. The appeal from order is accordingly dismissed.

4. In view of dismissal of the appeal from order, the civil application does not survive and is accordingly dismissed.

5. It is made clear that the appellate authority under the provisions of the Maharashtra Slum Act (I.C. & R), Act, 1971 shall decide the matter on its own merits without being influenced by the order passed by the learned trial Judge. The appellate authority before whom such appeal is preferred by the appellant shall dispose of the appeal expeditiously.

(R.D. DHANUKA, J.)