

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

APPEAL FROM ORDER NO. 244 OF 2015

WITH

CIVIL APPLICATION NO. 309 OF 2015

IN

APPEAL FROM ORDER NO. 244 OF 2015

Mr. Zainullah Shah Mohd. Chaudhary

...Appellant

Versus

**The Municipal Corporation of Greater
Mumbai**

...Respondent

Mr. P.J. Thorat, for the Appellant.

Ms. Madhuri More, for the Respondent.

CORAM : G.S. KULKARNI, J.

DATE : 6th December 2016

ORDER :

1. Heard Mr. Thorat, the learned Counsel for the Appellant and Ms. More, the learned Counsel for the Municipal Corporation.
2. This Appeal is directed against the impugned order dated 15th January 2015 passed by the learned Trial Judge in draft Notice

of Motion in L.C. Suit No. 43 of 2015. By the impugned order, the learned Trial Judge has refused to grant ad-interim reliefs in the draft Notice of Motion. This Appeal was heard on 24th February 2015 by this Court and while adjourning the hearing of this Appeal, an interim protection which was granted by the Trial Court on 15th January 2015, was permitted to be continued. The parties are *ad idem* that the said protection continues till date.

3. Mr. Thorat, the learned Counsel for the Appellant submits that the Notice of Motion itself is listed before the learned Trial Judge on 10th January 2017 for final hearing. If that be the case and as this Appeal arises from an ad-interim order it would be appropriate that the said Notice of Motion itself is heard and decided. No purpose would be served to keep this Appeal pending.

4. In the meantime, till the Notice of Motion is heard and decided, the protection which is granted by the learned Trial Court by an order dated 15th January 2015 and continued by this Court on 24th February 2015 and by subsequent orders, shall continue to operate.

5. The Appeal from Order is accordingly disposed of in above terms. No costs. All contentions of the parties on merits of the

matter are expressly kept open.

6. Civil Application would also not survive and is accordingly, disposed of.

[G.S. KULKARNI, J.]