

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
APPEAL FROM ORDER NO.271 OF 2016 with
CIVIL APPLICATION NO.347 OF 2016

Global Hospital & Research Centre Appellant
vs
Municipal Corpn of Gr.Mumbai .. Respondent

Dr.Veerendra Tulzapurkar Sr.Advocate a/w Mr.Vineet
Naik Sr.Advocate a/w Mr.Jamshed Lentin, MrJayesh Desai
i/b Desai & Desai Associates for Appellant

Mr.J.M.Reis Sr.Counsel i/b Mr.S.K.Sonawane and
Mr.A.V.Diwate for Respondent

...
CORAM: G.S.KULKARNI, J
DATE: 3RD MAY, 2016

P.C.

1. Heard Dr.Tulzapurkar learned senior counsel for the appellant and
Mr.Reis learned senior counsel for the Corporation.

2. Learned counsel for the parties agree that the appeal can be
conveniently disposed of on the following terms and that no reasons are required
to be recorded for passing this order. This Appeal is accordingly disposed of by
the following order:-

- 1) The Respondent-Corporation shall issue a fresh show cause notice
to the appellant based on the agreement dated 3rd April 2002 entered into
with the appellant. The show cause notice would be on the basis of
complaints, correspondence, annexed to the affidavit in reply of the

Municipal Corporation filed in this appeal and which is contained in pages 121 to 498 as well as any other additional documents till the day the show cause notice is issued and which the respondents may wish to rely upon;

2) The appellants if, they so desire shall be entitled to take inspection of any additional documents other than the documents annexed at pages 121 to 498 of this appeal Paper Book;

3) The appellants shall be entitled to seek inspection from the Municipal Corporation within two days of the receipt of the show cause notice, and the Corporation shall grant inspection of such documents within a period of 3 days thereafter;

4) The appellant shall file its reply to the show cause within a period of 3 weeks after inspection of the documents if any, or within a period of three weeks from the receipt of the show cause notice if no inspection of the documents is sought for;

5) The Municipal Commissioner shall grant a personal hearing to the appellants as expeditiously as possible. The date of such personal

hearing would be intimated to the appellant in writing one week in advance. The appellant as far as possible shall not seek an adjournment of the hearing before the Municipal commissioner. The Municipal Commissioner shall pass appropriate orders after hearing the appellants;

6) For the aforesaid reasons, and that the Municipal Commissioner would now decide the issue afresh, the order dated 29th December 2015 passed by the Municipal Commissioner is quashed and set aside.

7) Needless to observe that the Municipal Commissioner shall decide the show cause notice on its own merits without being influenced by the observations made in the order dated 29th December, 2015.

8) All contentions of the parties on merits of the matter are expressly kept open.

9) In view of this above orders, learned senior counsel for the appellant seeks leave to withdraw L.C.Suit No.97 of 2016 pending before the City Civil Court Bombay.

L.C.Suit No.97 of 2016 is accordingly allowed to be withdrawn and disposed of as such.

Appeal from Order is disposed of in above terms. No order as to costs.

Civil Application No.347 of 2016 would also not survive in view of disposal of the Appeal from Order and is accordingly disposed of.

G.S.KULKARNI, J

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