

Amk

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

**APPEAL FROM ORDER NO. 428 OF 2015
WITH
CIVIL APPLICATION NO. 554 OF 2015**

Mr. Satinder Pritamsingh Sethi	.. Appellant
Vs.	
The Municipal Corporation for Gr. Mumbai	.. Respondent

None for the Appellant.
Mrs. Madhuri More for the Respondent-BMC.

CORAM : G. S. KULKARNI, J.
DATE : 15th NOVEMBER, 2016.

P. C. :

1. This appeal was called out in the morning session. None appeared for the appellant. Again in the second session when it is called out, none appears for the appellant. The appeal challenges the order dated 21.02.2015 passed by the learned Judge of the City Civil Court at Dindoshi, Goregaon, Mumbai in Notice of Motion No. 437 of 2015 in L. C. Suit No. 402 of 2015. The impugned order is an ad interim order, by which part relief has been granted directing the Municipal Corporation not to demolish the structure as mentioned in the notice dated 05.11.2014 issued under Section 351 of the MMC Act pending passing of the final orders on the Notice of Motion. As regards the relief on notice dated 22.01.2015 issued under Section 55 of the MRTP Act, the same has been refused. That is how the appellant has approached this Court.

2. On a perusal of the impugned order, it is clear that the appeal is against an ad interim order passed in the Notice of Motion. The Notice of Motion is pending disposal before the Trial Court. In any case from the date of filing of this appeal on 20.03.2015 till date no protection is granted to the appellant.

3. Considering the above position, it is appropriate that the Notice of Motion itself is heard by the Trial Court. The adjudication of this appeal in these circumstances is not called for. In any case, the appellant is not interested to prosecute this appeal as noted above.

4. The appeal is, accordingly, disposed of keeping open all contentions of the parties to be urged in the Notice of Motion.

5. In view of the disposal of the appeal, civil application No. 554 of 2015 does not survive and stands disposed of.

[G. S. KULKARNI, J.]