

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

***APPEAL FROM ORDER NO. 399 OF 2014
WITH
CIVIL APPLICATION NO. 453 OF 2014***

Mr.Prashant R. Bhanushali,
At 103, Heenalaxmi Nr. B Cabin,
Naupada, Thane (W). ... Appellant/Applicant

v/s

Mr.Arvind Kumar Kanji Thakkar & ors. ... Respondents

Mr.Jayesh S. Kalanke for the appellant/applicant.

Mr.J.S.Kini i/by Suresh Dubey for Resp. Nos.1 to 10.

Mr.A.V.Diwate for Resp. Nos.11 to 14 for B.M.C.

CORAM: N.M. JAMDAR, J.

DATED : 29 MARCH 2016

P.C.:

The notice of motion taken out by Respondent Nos.1 to 10 – original plaintiffs, was disposed of by the impugned order passed by the City Civil Court, Mumbai, dated 1 February 2014, as under :

'O R D E R

- 1. Notice of motion No.2926 of 2013 is made absolute.*
- 2. Cost will cause in costs.*

3. *The Defendant No.1 is restrained from demolishing the suit building till the decision of the suit.*
4. *The Defendant No.1 is hereby directed not to insist on no objection of the Defendant No.5/Landlord to give the repair permission to the Plaintiffs to carry out the repair of the suit premises, if the Plaintiffs complied the provisions for repair permission as laid down under the M.M.C. Act.*

Notice of Motion No.2926 of 2013 in LC Suit No.3197 of 2013 stands disposed of.'

2 Learned counsel for the Appellant makes a grievance that the Respondents/original Plaintiffs have not taken any steps pursuant to the impugned order which has led to further deterioration of the building. Learned counsel for the Respondents/Plaintiffs, on instructions, states that the substantial repairs are carried out and in any case they will be completed as per the impugned order within six weeks from today. This statement is accepted.

3 The Respondents/Plaintiffs will carry out the repairs as per the provisions for repair permission as laid down under the Mumbai Municipal Corporation Act, within a period of six weeks from today. The Respondents/Plaintiffs will furnish an indemnity, if not already submitted, that the repairs are solely at the risk of the Respondents/Plaintiffs and the Appellant landlord and the Corporation will not be responsible for the same. Copy of the indemnity be given to the learned counsel for the Appellant within a period of two weeks from today.

4 No other argument was advanced.

5 Since it is the grievance of the Appellant that the
Respondents/Plaintiffs are not carrying out the repairs, the
Appellant will not issue communications to the Respondent
Corporation not to permit the Respondents/Plaintiffs to comply
with the impugned order.

6 The appeal is accordingly disposed of.

7 In view of disposal of the appeal, the civil application does
not survive and is disposed of.

(N. M. JAMDAR, J.)