

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

CIVIL APPLICATION NO.2700 OF 2015

IN

FIRST APPEAL NO.768 OF 2010

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.Vivek K. Gupta for the applicant
Mrs.M.R.Bhoir for the BMC

CORAM : K.K.TATED, J.
DATED : 11/01/2016

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by plaintiff for fixing early date of hearing of First Appeal No.768 of 2010.
- 3 The learned counsel for the applicant submits that the suit filed by them decreed by the Trial Court holding that notice issued by the corporation dated 20.2.1997 under section 351 of the Mumbai Municipal Corporation Act and consequential order dated 19.01.2001 were illegal, invalid and inoperative. The Trial Court allowed the plaintiff to re-erect the suit structure i.e. hut admeasuring 168 sq. ft. in the nature of ground floor structure at the suit site. He submits that the appellant original defendant preferred the present First Appeal.

Same was admitted by this court and granted stay. He submits that though the Trial Court by impugned the Judgment and Decree dated 15.3.2008 set aside notice u/s.351 of M.M.C. Act issued by the Corporation and allowed the plaintiff to reconstruct his hut, same is not materialised till today because of the appeal filed by the Corporation and stay granted by this court. He submits that applicant at present does not have any source of income and the accommodation to stay with his family. Hence, there is urgency in the present matter and same may be taken up for hearing and final disposal. He further submits that even the office note shows that First Appeal is ready for final hearing.

4 Considering the submissions made by the learned counsel for the applicant, the averments made in Civil Application and the impugned the Judgment and Decree passed by Trial Court, I am of the opinion that the applicant has made out a case for early hearing of the First Appeal. Hence, following order is passed:

- a) Hearing of First Appeal No.768 of 2010 is expedited.
- b) Civil application stands disposed off accordingly.

(K.K.TATED, J.)