

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

APPEAL FROM ORDER (STAMP) NO. 11365 OF 2016
WITH
CIVIL APPLICATION (STAMP) NO. 11368 OF 2016
IN
APPEAL FROM ORDER (STAMP) NO. 11365 OF 2016

M/s. Sanket Electroplast

...Appellant

Versus

Municipal Corporation of Gr.
Mumbai

...Respondent

.....

Mr. Abhijit Singh i/b Mr. A. R. Mishra for the Appellant.
Mr. S. K. Sonawane for the Respondent-BMC.

CORAM : G. S. KULKARNI, J.
DATE : 22nd APRIL, 2016.

P. C. :

1. This appeal was heard on 21.04.2016 and was adjourned for today to enable the learned counsel for the appellant to take instructions from his client/appellant as to whether the appellant would be interested to make an application to the Municipal Corporation for regularization of the disputed structure being subject matter of notice dated 23.12.2015 issued by the Municipal Corporation under Section 351 of the Mumbai Municipal Corporation Act, 1888.

2. Learned counsel for the appellant submits that the appellant is willing to make an application for regularization of the disputed structure by making an appropriate application to the Building and Proposal Department, of the Mumbai Municipal Corporation, within the period of 4 weeks from today. Needless to observe that the appellants having agreed to make an application for regularization of the said structure would indicate that the notice under Section 351 issued by the Municipal Corporation could not have been faulted with.

3. If the application as requested on behalf of the applicant is made within the period of 4 weeks from today, the respondent-Corporation shall decide the same on its own merits and within a period of 8 weeks from the receipt of the said application. If such an application is made by the appellant within a period of four weeks from today, till the same is decided and the order in that behalf is communicated to the appellants, no coercive steps shall be take by the Municipal Corporation in regard to the disputed structure being the subject matter of the notice dated 23.12.2015.

4. If the appellant fails to make an application within a period of four weeks as stated, it is needless to observe that the Corporation would be at liberty and shall proceed to take appropriate

action to enforce notice dated 23.12.2015 issued under Section 351 of the MMC Act.

5. In view of the appellant intending to make an application for regularization of the disputed structure, the learned counsel for the appellant seeks leave to withdraw L. C. Suit No. 668 of 2016 pending before the City Civil Court, Mumbai. Accordingly L. C. Suit No. 668 of 2016 is allowed to be withdrawn.

6. Copy of this order be forwarded to the Registrar, City Civil Court, Mumbai to be placed on record of the suit as L. C. Suit No. 668 of 2016 as it stands withdrawn.

7. In the light of the above position, adjudication of the Appeal from Order is not necessary. The Appeal from Order is accordingly disposed of. No order as to costs.

8. As the Appeal from Order is disposed of, the Civil Application does not survive and disposed of as such.

(G. S. KULKARNI, J.)