

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

APPEAL FROM ORDER (STAMP) NO. 11654 OF 2016
WITH
CIVIL APPLICATION (STAMP) NO. 11655 OF 2016
IN
APPEAL FROM ORDER (STAMP) NO. 11654 OF 2016

Mr. Kamalchand Budhinarayan
Gupta

...Appellant

Versus

Maharashtra Housing and Area
Development Authority & Ors.

...Respondents

.....

Mr. Yusuf Khan for the Appellant.

Ms. Gaurai Deshpande i/b Mrs. Neha Bhide for the Respondent-
MHADA.

Mr. A. V. Diwate for the BMC.

CORAM : G. S. KULKARNI, J.

DATE : 28th APRIL, 2016.

P. C. :

1. Heard learned counsel for the appellant and learned counsel for respondent No.4. The appellant and respondent No.4 have tendered Consent Terms entered between the parties. The Consent Terms indicate that the dispute between the appellant and respondent No.4 is resolved in terms of the Consent Terms which is placed on record. The Consent Terms are taken on record and marked 'X' for identification. An undertaking as set out in clause 9 of

the Consent Terms is accepted.

2. In clause 8 of the Consent Terms the parties have agreed that without prejudice to the rights of the appellant, the appellant would make an application to respondent No.1-MHADA for certification of the suit premises. Clause 8 of the Consent Terms records that it is agreed between the parties that if such an application is made, respondent No.1-MHADA shall decide the same within a period of 8 weeks from the date of application. The parties to the Consent Terms agree that they cannot bind MHADA by such a stipulation in the Consent Terms, when MHADA is not a party to that Consent Terms. The appellant and respondent No.4 agreed before the Court that the said agreement as contained in clause 8 of the Consent Terms shall stand modified so as to read that the appellant could make an application to respondent No.1-MHADA and can approach the concerned Competent Authority of MHADA with a request to decide the same expeditiously.

3. Needless to observe that if any application is made on behalf of the appellant as specified in clause 8 of the Consent Terms, it will be decided by respondent No.1-MHADA on its own merits and in accordance with law. The parties have agreed, that to the above extent clause 8 of the Consent Terms shall stand modified.

4. It is clarified that the Consent Terms are entered between the appellant and respondent No.4 and that it would not affect any of the contentions of respondent Nos.1 to 3, namely, the MHADA and its officers and respondent No.5, Municipal Corporation and the Assistant Engineer, (B.P) City-VI, G/South Ward, Parel, Mumbai.
5. Subject to the above observations, the Appeal from Order is disposed of in terms of the Consent Terms.
6. As the Appeal from Order is disposed of, the Civil Application does not survive and the same is accordingly disposed of.
7. In view of clause 10 of the Consent Terms, L. C. Suit No. 842 of 2016 also does not survive and the same stand disposed of.
8. Copy of this order be forwarded to the Registrar of City Civil Court at Mumbai to be placed on record of the L. C. Suit No. 842 of 2016 as the same stand disposed of.
9. Parties to act on the authenticated copy of this order.

(G. S. KULKARNI, J.)