

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

**APPEAL FROM ORDER NO.545 OF 2016
WITH
CIVIL APPLICATION NO.702 OF 2016**

Pradeep Laxman Ghivalkar : Appellant/Applicant
versus
Laxman Vitthal Ghivalkar and ors. : Respondents.

Mr. M A Khan for the Appellant/Applicant.
Mr. Kunal Bhanage for the Respondent Nos.1 and 2.
Mrs. M R Bhoir for the Respondent No.3.

CORAM : R. M. SAVANT, J.
DATE : 30th June 2016

P.C.

1 The order dated 05/04/2016 passed by the learned Judge of the City Civil Court, Greater Mumbai dismissing the Notice of Motion filed by the Appellant/original Plaintiff is taken exception to by way of the above Appeal from Order.

2 The bone of contention in the suit in question is the license issued under Section 479 of the Mumbai Municipal Corporation Act. Under the said license the Defendant No.1 who is the father of the Appellant herein is doing wholesale business in fish. It seems that there is a written agreement dated 01/02/2016 between the Defendant No.1 i.e. the father and the Defendant No.2 who is the grandson of the Defendant No.1, being the son of another son

of the Defendant No.1.

3 The Plaintiff in the suit in question moved an application for
injuncting the Municipal Corporation of Greater Mumbai (“MCGM” for short)
from transferring the license.

4 The Trial Court has rejected the said Notice of Motion inter alia on
the ground that the transfer of license is within the exclusive domain of the
MCGM and the MCGM cannot be prevented from carrying out its
administrative acts. The Trial Court also observed that till the Notice of Motion
is being considered, the license would not be transferred and therefore the
application was premature. The Trial Court observed that it is only after the
MCGM decides the application for transfer one way or the other, that the cause
of action would arise.

5 In my view, having regard to the reasons mentioned by the Trial
Court for rejecting the Notice of Motion, no case for interference is made out.
The above Appeal from Order is accordingly dismissed. In view of the dismissal
of the above Appeal from Order, Civil Application No.702 of 2016 does not
survive and the same to accordingly stand disposed of as such.

[R.M.SAVANT, J]