

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 883 OF 2016

IN

APPEAL FROM ORDER NO. 365 OF 2016

Mrs. Saili Santosh Khair ...Applicant

In the matter between

Suresh Shivram Palekar & Ors. ...Appellants

Versus

Municipal Corporation for Gr. Mumbai & Ors. ...Respondents

Mr. S.A. Pilankar, for the Applicant.

Mrs. Aarti Dandekar, for Respondent No. 3.

CORAM : R.M. SAVANT, J.

DATE : 10th August 2016

P.C. :

1. The above Civil Application has been filed by Smt. Saili Santosh Khair, who was the Appellant No. 2 in the above mentioned Appeal. The above mentioned Appeal has been disposed of by a learned Single Judge of this Court by the order dated 23rd March 2016. In the context of the reliefs sought in the above Civil

Application, the following excerpt of paragraph 3 is material and is reproduced hereinunder:-

“1.

2. *Corpus after vacating and handing over flat premises for demolishing Rs. 2,00,000/-. Balance Corups of Rs. 8,00,000/- during the progress of work.*

3.”

2. Hence, the member of the Respondent Society was entitled for payment of Rs. 2,00,000/- on demolition and payment of Rs. 8,00,000/- which is the balance corpus during the progress of the work. The above Application has been filed restricted to the Appellant No. 2 Smt. Saili Khair on the ground that there is a dispute insofar as the Appellant No. 1 and the Appellant No. 3 are concerned as regards the title of the old premises. The learned Counsel appearing for the Respondent No. 3 i.e. the Society has no objection to the Applicant Smt. Saili Khair being permitted to withdraw the amount Rs. 2,00,000/- from the amount of Rs. 6,00,000/- deposited in this Court. Hence, the above Civil Application is allowed and made absolute in terms of prayer clause (a). The above Civil Application is accordingly disposed of.

3. The balance remaining of Rs. 4,00,000/- would continue to lie in deposit in this Court and may be invested in a fixed deposit of a Nationalised Bank initially for a period of six months, as some time would be taken for the issue as regards the title dispute between the Appellant No. 1 and the Appellant No. 3 to get resolved.

[R.M. SAVANT, J.]