

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

**APPEAL FROM ORDER STAMP NO.16281 OF 2016
WITH
CIVIL APPLICATION STAMP NO.16282 OF 2016**

Mukesh Mohanlal Mehta : Appellant.
Versus
Municipal Corporation of Greater
Mumbai and ors. : Respondents.

Mr. Pankaj Dwivedi for the Appellant.
Mr. A V Diwate for the Respondent No.1
Mr. Sanjay Kothari a/w Mr. Avinash Joshi and Mr. K K Tiwari i/by Mulla
and Mulla & CBC for the Respondent Nos.2(b) and 2(c).

CORAM : R. M. SAVANT, J.
DATE : 17th June 2016

P.C.

1 The order dated 08/06/2016 passed by the learned Judge of the City Civil Court, Borivali Division, Dindoshi)Branch, Bombay is taken exception to by way of the above Appeal from Order. By the said order the ad-interim relief has been refused to the Appellant/Plaintiff in the Notice of Motion filed by him being Notice of Motion No.964 of 2016.

2 In respect of a structure in question a notice dated 08/06/2015 has been issued under Section 354 of the Mumbai Municipal Corporation Act on account of the fact that the building in question is in a ruinous condition and inhabitable condition. The said notice has been preceded by the report of

the Technical Advisory Committee as constituted by the Municipal Corporation for Greater Bombay pursuant to the directions issued by the Division Bench of this Court in Writ Petition No.1135 of 2014 by its order dated 23/06/2014. The Technical Advisory Committee has observed that the building under reference is in a dilapidated condition and is not fit for human habitation and hence is required to be vacated and to be pulled down under the supervision of Structural Consultant by following due process of law.

3 The learned Judge of the City Civil Court whilst considering the Technical Advisory Committee's report has observed that the Technical Advisory Committee has considered the reports of the Engineers appointed by the owners as well as tenant and also followed the guidelines as mentioned in the order dated 23/06/2014 in Writ Petition No.1135 of 2014. The Trial Court was therefore of the view that the Plaintiff is not entitled for ad-interim relief which was on the ground that the Defendant Nos. 2(a) to 2(c) are also ready to offer the alternate accommodation to the Plaintiff. The Trial Court observed that the apprehension of the Plaintiff that they would not abide by their commitment seems to be unfounded.

4 The learned counsel appearing on behalf of the said Defendants i.e. the Respondent No.2 herein draws this Court's attention to the fact that in fact the Consent Terms were drawn up, however, the Plaintiff has resiled from

the said Consent Terms at the last minute.

5 In my view, no case for interference in the Appellate Jurisdiction of this Court is made out. The above Appeal from Order is accordingly dismissed. In view of the dismissal of the above Appeal from Order, Civil Application Stamp No.16282 of 2016 does not survive and the same to accordingly stand disposed of as such.

[R.M.SAVANT, J]