

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

**APPEAL FROM ORDER NO.650 OF 2014
ALONGWITH
CIVIL APPLICATION NO.786 OF 2014**

**Shree Ram Sai Darshan Co-op. Housing
Society Ltd. and another .. Appellants
Versus
Mr. Ramchandra Mohanlal Gupta and another .. Respondents**

**ALONGWITH
APPEAL FROM ORDER NO.651 OF 2014
ALONGWITH
CIVIL APPLICATION NO.787 OF 2014**

**Shree Ram Sai Darshan Co-op. Housing
Society Ltd. and another .. Appellants
Versus
Mr. Mohammad Hussain Shaikh and another .. Respondents**

**ALONGWITH
APPEAL FROM ORDER NO.652 OF 2014
ALONGWITH
CIVIL APPLICATION NO.788 OF 2014**

**Shree Ram Sai Darshan Co-op. Housing
Society Ltd. and another .. Appellants
Versus
Mrs. Rekha C. Harsora and another .. Respondents**

ALONGWITH
APPEAL FROM ORDER NO.653 OF 2014
ALONGWITH
CIVIL APPLICATION NO.790 OF 2014

Shree Ram Sai Darshan Co-op. Housing
Society Ltd. and another .. Appellants
Versus
Mr. Carmine John Fernandis and another .. Respondents

ALONGWITH
APPEAL FROM ORDER NO.655 OF 2014
ALONGWITH
CIVIL APPLICATION NO.791 OF 2014

Shree Ram Sai Darshan Co-op. Housing
Society Ltd. and another .. Appellants
Versus
Mrs. Sangeeta Shyam Singh and another .. Respondents

ALONGWITH
APPEAL FROM ORDER NO.656 OF 2014
ALONGWITH
CIVIL APPLICATION NO.792 OF 2014

Shree Ram Sai Darshan Co-op. Housing
Society Ltd. and another .. Appellants
Versus
Mr. Jitendra P. Tanna and another .. Respondents

Mr. S. K. Dubey for the Appellants.

Ms. Geeta Bhoir for the Respondent No.1/original Plaintiff.

Mrs. M. R. Bhoir for the Respondent No.2 BMC.

CORAM : R.M. SAVANT, J.

DATE : 2nd AUGUST 2016

PC.

1 The above Appeals from Order take exception to identical orders all dated 07.03.2014 passed by the Learned Judge of the City Civil Court, Borivali Division, Dindoshi, Mumbai, by which order, the Notices of Motion filed by the Plaintiffs i.e. Respondents in each of the above Appeals from Order came to be allowed in terms of prayer clause (a) of the said Notices of Motion, as a consequence of which the Municipal Corporation of Greater Mumbai (For short "MCGM") was restrained from taking action against the six shops each admeasuring 200 sq.fts. totally admeasuring 1200 sq.fts. in the open area of the Respondent society.

2 It is required to be noted that the Notices of Motion were filed in the year 2011 alongwith the suits which are also of the same year. There was an ad-interim relief operating in favour of the Plaintiff in each of the suits pending the consideration of the said Notices of Motion. The Trial Court has deemed it appropriate to make Notices of Motion absolute as according to it there are many complications in the matter and that the

impugned order passed by the MCGM does not disclose that there was verification done about the notice structures being censused structures. The Trial Court was of the view that the complications can be thrashed out at the trial of the suits and since the ad-interim order was continuing from the year 2011 till March 2014 i.e. till the Notices of Motion were disposed of, the Trial Court deemed it appropriate to make the Notices of Motion absolute in terms of prayer clause (a) of the said Notices of Motion. The Learned Counsel appearing on behalf of the Respondents state that the suit is at the stage where the affidavit of evidence on behalf of the Plaintiff is to be filed on 05.08.2016. In my view, having regard to the facts as mentioned hereinabove as also having regard to the fact that the recording of evidence is to start on 05.08.2016, there is no warrant to interdict with the impugned orders. The above Appeals from Order are accordingly dismissed.

3 However in the facts and circumstances of the case where the gravamen of the allegation is as regards construction in the open space, it would be just and proper to expedite the hearing of the suits in question. The hearing of the respective suits is accordingly expedited and having regard to the fact that the dispute lies in a narrow compass are directed to be disposed of latest by 28.02.2017.

4 In view of the dismissal of the Appeals from Order, the Civil Applications do not survive and to accordingly stand disposed of as such.

5 Needless to state that the suits would be tried on their own merits and in accordance with law uninfluenced by the impugned orders or the instant order.

[R.M. SAVANT, J]