

Sequeira

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

***APPEAL FROM ORDER NO. 734 OF 2014
Along with
CIVIL APPLICATION NO. 888 OF 2014***

Sameer Datta Kadam & anr. .. Appellants / Applicants

Versus.

The Municipal Corporation
of Greater Bombay & anr. .. Respondents

Mr.Rahul Rao i/b Dahi bawkar & Co., for Appellants / Applicants.
Mr.A.V.Diwate, for Respondents-BMC.

***CORAM: N.M. JAMDAR, J.
Wednesday, 30 March 2016.***

PC. :

By this Appeal the Appellants challenge the order passed by City Civil Court, Mumbai dated 4 July 2014 refusing to grant ad-interim relief in the Notice of Motion taken out by the Appellants.

2. The structure in question is a shed with B.M. wall and G.I. sheet in the front and back side of the shop of the Appellants. According to the Appellants, the structure is only a temporary shed, which can be dismantled, set up for the purpose of monsoon, which is routinely allowed.

3. The learned City Civil Court Judge, perused the photographs which were placed on record and came to the conclusion that looking at the nature of the construction it cannot be said to be temporary. I have perused the photographs also and I do not find that the conclusion reached by learned City Civil Court Judge, can be termed as perverse.

4. Now since it is the case of the Appellants that a protection is necessary during the monsoon, it is not required that this shed need to continue till the next monsoon period atleast. If the Appellants want to put up protection from the rains, the Appellants can always make an application as may be permissible in law which will be considered by the authorities in terms of the Act and the Rules.

5. In view of this position no further order needs to be passed in this Appeal. The Appeal from Order is accordingly disposed of. The interim order stands vacated. The suit structure if not already removed, shall be removed within period of 15 days from today, failing which it will be open to the Municipal Corporation to take appropriate action.

6. In view of this position, the suit itself does not survive. Liberty to the parties to place the copy of this order on the file of the pending suit for appropriate order of disposal.

(*N.M. JAMDAR, J.*)