

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

***APPEAL FROM ORDER NO. 751 OF 2014
WITH
CIVIL APPLICATION NO. 915 OF 2014***

Ramdas Anant Khandekar,
Flat No.61, Ashwamedh Bldg.,
Plot No.107, Shivaji Park Road No.3,
Dadasaheb Reghe Marg,
Dadar (W), Mumbai – 400 028. ... Appellant/Applicant

v/s

The Municipal Corporation of Gr. Mumbai,
& anr. ... Respondents

Mr.Sandip Ghogare for the appellant/applicant.

Mr.S.K. Sonawane for the respondent B.M.C.

CORAM: N.M. JAMDAR, J.

DATED : 1 APRIL 2016

ORAL ORDER:

This appeal challenges the refusal to grant ad-interim order, by the impugned order dated 9 July 2014, passed by the City Civil Court, Mumbai.

2 Admit. Taken up for final disposal by consent of the parties.

3 Heard learned counsel Mr.Sandip Ghogare for the Appellant and Mr.S.K. Sonawane for the Respondent Corporation.

4 The Appellant had earlier filed Writ Petition No.237 of 2013 which was disposed of on 13 March 2014 and the designated officer was directed to reconsider the matter. After the decision was taken against the Appellant, the Appellant filed L.C.Suit No.1815 of 2014 and took out a notice of motion restraining the Respondent Corporation from demolishing the premises. Ad-interim relief sought was rejected by the City Civil Court by the impugned order. In the present appeal, this Court on 24 July 2014 continued the protection granted earlier in the writ petition on 13 March 2014, which is continued till date. Considering that the notice of motion is yet to be heard and the protection is granted by this Court, which is in operation since July 2014 and that the structure in question is a part of the dwelling house, I am of the opinion that, it will be appropriate that the appeal is disposed of by giving liberty to the Respondent Corporation to make an appropriate request for early disposal of the notice of motion to the learned City Civil Court Judge.

5 The appeal is accordingly disposed of and the protection granted by the order dated 24 July 2014 to continue till the disposal of the notice of motion. The learned City Civil Court Judge will decide the notice of motion uninfluenced by the continuation of the protection granted by this Court.

6 The appeal is accordingly disposed of in above terms.

7 In view of disposal of the appeal, the civil application is also disposed of.

(N. M. JAMDAR, J.)