

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

CIVIL APPLICATION NO.3789 OF 2014

IN

FIRST APPEAL NO.649 OF 2014

Mr. Ansari Taufiq Abdul

.. Applicant

Versus

The State of Maharashtra and another

.. Respondents

Mr. Sushil Upadhyay i/by Mr. A. M. Saraogi for the Applicant.

Mr. A. R. Patil, AGP for the Respondent No.1.

Mrs. M. R. Bhoir for the Respondent BMC.

CORAM : R.M. SAVANT, J.

DATE : 10th AUGUST 2016

PC.

1 The above Civil Application has been filed for the relief that the Respondents i.e. Municipal Corporation of Greater Mumbai ("MCGM" for short) and the State be directed to consider the entitlement of the Applicant for grant of permanent alternate accommodation in lieu of the existing premises which was in existence prior to 01.01.1995 on such terms as this Court deem fit and proper. The Applicant is the original Appellant who has filed the above First Appeal challenging the judgment and order dated 21.01.2014 passed by the Learned Judge of the City Civil Court, by which order, the suit filed by the Plaintiff came to be dismissed.

The subject matter of the suit was the notice issued under Section 314 of the Mumbai Municipal Corporation Act directing the Plaintiff to remove the encroachment from the pavement. The said encroachment was opposite to St. George Hospital, P. D'Mello Road, Carnac Bunder, Mumbai. It seems that the structure of the Plaintiff came to be demolished on 31.03.2010 during the pendency of the suit, as it seems that there were no interim reliefs operating in favour of the Plaintiff. In so far as permanent alternate accommodation is concerned, the cause for the same would arise only if the structure is in a slum wherein a slum rehabilitation scheme is being implemented or that the structure is coming within a project being implemented by the MCGM or the State. In the instant case, the structure does not qualify under any of the aforesaid two eventualities. Hence, there is no question of considering the Applicant's application for being allotted permanent alternate accommodation. The relief sought by the above Civil Application therefore cannot be granted. The Civil Application is accordingly rejected.

2 The time to file private paper book in the First Appeal is extended upto 30.09.2016.

[R.M. SAVANT, J]