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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.635 OF 2015
WITH
CIVIL APPLICATION NO.912 OF 2015

Atikaben F. Tinwalla	...Appellant
V/s.	
The Municipal Corporation of Gr. Bombay & Ors.	...Respondents

Mr.N.R. Tiwari for the Appellant.

Mr.A.V. Diwate for the Respondent No.1 – B.M.C.

Mr.Amanatullah Khan for the Intervenor in Civil Application No.479 of 2015.

Ms.S. Bhaidkar, 2nd Assistant Court Receiver present.

CORAM : R.D. DHANUKA, J.
DATE : 1ST FEBRUARY, 2016.

P.C. :-

1. There is no dispute that the suit structure has been already demolished on 25th April, 2015. As on 25th April, 2015, there was no *ad-interim* order passed by this Court in the appeal from order filed by the appellant.

2. It is the grievance of the appellant that the suit structure has been demolished by the Municipal Corporation on non-working Saturday and the same could not have been demolished during the

pendency of the appeal filed by the appellant.

3. The appellant has also filed Civil application (912 of 2015) *inter-alia* praying for issuance of notice for contempt against the respondents and the intervenor and for reconstruction of the suit premises.

4. Admittedly on the date of demolition of the suit structure by the Municipal Corporation, there was no ad-interim stay granted by this Court. Merely because the suit structure is demolished on Saturday, that would not amount to violation of the order passed by this Court. The submission of learned counsel appearing for the appellant that during the pendency of the appeal though there was no specific stay granted by this Court, the Municipal Corporation could not have demolished the suit structure and that also on Saturday is totally unsustainable and is rejected.

5. Insofar as the prayer for allowing reconstruction of the suit premises is concerned, it is made clear that the appellant would be at liberty to apply for reconstruction of the suit premises before the learned trial Judge and if any such application is made before the learned trial Judge, the learned trial Judge shall consider the same on its own merits.

6. The appeal from order is accordingly disposed of in aforesaid terms.

7. In view of the disposal of the appeal from order, the civil application does not survive and is accordingly disposed of. No order as to costs.

(R.D. DHANUKA, J.)