

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Appeal from Order (ST) NO. 30942 OF 2016
with
Civil Application (St.)No.30944 Of 2016

Mrs Hemlata W/o. Amar Bahadur Singh	...Appellant
<i>Versus</i>	
Municipal Corporation For Greater Mumbai	...Respondent

WITH

Appeal from Order (ST) NO. 30943 OF 2016
with
Civil Application (St.)No.30945 Of 2016

Mr. Gayaprasad S/o. Chintamani Pandey	...Appellant
<i>Versus</i>	
Municipal Corporation For Greater Mumbai	...Respondent

WITH

Appeal from Order (ST) NO. 30946 OF 2016
with
Civil Application (St.)No.30950 Of 2016

Mr. Ramapati S/o Ramprasad Tiwari	...Appellant
<i>Versus</i>	
Municipal Corporation For Greater Mumbai	...Respondent

WITH

Appeal from Order (ST) NO. 30948 OF 2016
with
Civil Application (St.)No.30951 Of 2016

Mr. Ravikumar Ramchandra Verma	...Appellant
<i>Versus</i>	
Municipal Corporation For Greater Mumbai	...Respondent

WITH

Appeal from Order (ST) NO. 30949 OF 2016

with

Civil Application (St.)No.30952 Of 2016

Mr Shyamsundar Motilal Gupta

...Appellant

Versus

Municipal Corporation For Greater Mumbai

...Respondent

WITH

Appeal from Order (ST) NO. 30953 OF 2016

with

Civil Application (St.)No.30956 Of 2016

Mr. Ramniwas S/o. Ramprasad Tiwari

...Appellant

Versus

Municipal Corporation For Greater Mumbai

...Respondent

WITH

Appeal from Order (ST) NO. 30954 OF 2016

with

Civil Application (St.)No.30957 Of 2016

Mr Krishna Kannippa Gounder

...Appellant

Versus

Municipal Corporation For Greater Mumbai

...Respondent

WITH

Appeal from Order (ST) NO. 30955 OF 2016

with

Civil Application (St.)No.30958 Of 2016

Mrs.urmila Gayprasad Pandey

...Appellant

Versus

Municipal Corporation For Greater Mumbai

...Respondent

WITH

Appeal from Order (ST) NO. 30959 OF 2016
with
Civil Application (St.)No.30960 Of 2016

Mrs. Suman Trilokinath Bari	...Appellant
<i>Versus</i>	
Municipal Corporation For Greater Mumbai	...Respondent

Mr.S.K.dubey, for the Appellants.

Ms.Madhuri More, for Respondent – BMC.

Mr.S.R.Mudape, Senior Engineer, S Ward (B&F) present.

CORAM : G.S. KULKARNI, J.

DATE : 16th November, 2016.

ORDER:

1. Heard Mr.S.K.Dubey, learned Counsel appearing for the Appellants and Ms.Madhuri More, learned Counsel appearing for Respondent – Municipal Corporation. Learned Counsel for the Appellants submits that the issues in all these appeals are common arising from the orders passed by the learned Trial Judge and they they can be disposed of by a common order.

2. The challenge in all these appeals is to an ad-interim orders dated 7 November 2016 passed by the learned City Civil Court, Mumbai in draft Notices of Motion in the respective L.C.Suits filed by the Appellants-Plaintiffs. The challenge in all these suits is to an action initiated on

behalf of the Corporation under Section 351 of the Mumbai Municipal Corporation Act in respect of unauthorised vertical extension of upper floor by the Appellants-Plaintiffs. The learned Judge in the impugned order has noted that the documents as relied on behalf of the Appellants respectively are totally insufficient to show that these structures are authorised. Prima facie considering the averments in the complaints as also the submissions made by the Appellants, I do not find any reason to interfere with the ad-interim orders. The learned Judge on the basis of the documents which were available on record and the nature of the orders as passed by the Municipal Corporation, in my opinion, has appropriately come to the conclusion that the Appellants were not entitled to any ad-interim relief.

3. At this stage, Mr.Dubey, learned Counsel for the Appellants submits that by an order dated 11 November 2016 passed by the learned Vacation Judge of this Court, the Appellants are granted protection till today. It is submitted that the Appellants have further documents available namely patch-holders card etc. on which though there is no pleading in the complaints, are intended to be relied upon by the Appellants in support of their respective case as pleaded in the complaint.

4. Considering the facts and circumstances of the case, though I am not inclined to entertain these appeals, to grant one more opportunity

to the Appellants, I consider it appropriate to grant limited protection of continuation of ad-interim order dated 11 November 2016 for a period of two weeks, within which the Appellants are at liberty to approach the Trial Court on the basis of further appropriate material and seek such appropriate reliefs.

5. Needless to observe that the Corporation is entitled to file its reply to any such fresh material which may be relied upon by the Appellants. The learned Trial Judge shall consider such material on its own merit and pass an order in accordance with law. All the contentions of the parties on merit of the matter are kept open.

6. The concerned officer of the Respondent-Corporation is present in Court and this order is passed in his presence.

7. The Appeals from order are disposed of in the above terms.
No costs.

8. The respective Civil Applications do not survive. They are accordingly disposed of.

(G.S.KULKARNI, J.)