

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

**APPEAL FROM ORDER (ST.) NO.33873 OF 2015
along with
CIVIL APPLICATION (ST.) NO.33874 OF 2015
in
APPEAL FROM ORDER (ST.) NO.33873 OF 2015**

Shaikh Mehboob Hussain	..	Appellant/Applicant
Vs.		
The Municipal Corporation of Greater Mumbai & Ors.	..	Respondents

Mr.Kunal Bhange for the appellant/applicant.
Mr.A.Y. Sakhare, Senior Advocate a/w Mr.S.K. Sonawane for the respondent no.1-MMC.
Mr.Milind Prabhune for the respondent nos.2 to 6.
Mr.Atul Damle, Senior Advocate i/by Mr.Atul Singh for the respondent nos.7 to 14.

CORAM : R.D. DHANUKA, J.
DATE : 5th February 2016

P.C.

. Learned counsel for the appellant and the respondent nos.7 to 14 have tendered consent terms dated 5th February 2016 duly executed between them. Learned counsel for the respondent nos.2 to 6 and the respondent nos.7 to 14 have tendered consent terms dated 5th February 2016 duly executed between them and duly signed by the respondent nos.2 to 6 and the respondent nos.7 to 13 through their constituted attorney who is the respondent no.14. The respondent nos.2 to 6 in-person present in Court. The respondent no.14 is also present in Court. Copy of the power attorney executed in favour of the respondent no.14 by the respondent nos.7 to 13 is produced on record. Signatures of the parties to the consent terms are identified by their respective advocates.

2. In all six consent terms are tendered in Court and the same are taken on record and marked "X to X5" for identification. Undertakings, if any, recorded in the consent terms are accepted. The appellant has withdrawn the challenge to the notice issued by the Municipal Corporation and the action initiated thereon.

3. Learned counsel appearing for the appellant as well as the other respondents who are signatories to these consent terms undertake before this Court that the tenants would continue to occupy the suit premises till 31st March 2016 at their own risks and costs. The Municipal Corporation will not be held responsible for any untoward incident, if any, takes place till possession of the suit premises are handed over by the tenants to the landlord and the said structures are demolished. Undertakings are accepted.

4. The appellant as well as the respective tenants shall also address a separate letter to the Municipal Corporation in this respect within one week from today clarifying that the Corporation would not be held responsible if any untoward incident takes place till possession of the suit premises are handed over by the tenants to the landlord and till the said structures are demolished and that they would continue to occupy the suit premises till 31st March 2016 at their own risks and costs. They should also indemnify the Municipal Corporation for any loss caused to the Municipal Corporation for their own acts.

5. Learned counsel appearing for the appellant states that during this period when the tenants will be allowed to occupy the suit building till it is demolished, the owner of the properties will prop the

suit building and also provide appropriate fencing to avoid any inconvenience and for the purpose of providing safety to the members passing on the street on which the building is situated within 10 days from today. Statement is accepted.

6. Appeal from order is disposed of in aforesaid terms. In view of disposal of the second appeal, civil application does not survive and is accordingly disposed of. No order as to costs.

7. It is made clear that the consent terms are arrived at between the parties other than the Municipal Corporation which is not a party to the consent terms. It is also made clear that in view of the consent terms arrived at between the parties and in view of the undertakings rendered by the parties to the consent terms, Municipal Corporation shall not take any action pursuant to the notices issued by the Municipal Corporation against the appellant and the tenants till 31st March 2016 however on the condition that the Corporation will not be held responsible for any untoward incident if any takes place. It is also made clear that in case of any emergency and if any further action is required to be taken considering the dilapidated condition of the building, the Municipal Corporation would be at liberty to take appropriate action and if any such action is taken, the tenants as well as owners will not prevent the Municipal Corporation to take any such action.

R.D. DHANUKA, J.