

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

**APPEAL FROM ORDER NO.127 OF 2015
ALONG WITH
CIVIL APPLICATION NO.161 OF 2015**

Shivpujan Bansharaj Shukla : Appellant/Applicant.

Versus

Municipal Corporation of Greater Mumbai : Respondent.

**Mr. Pankaj Dwivedi with Mr. D A Dwivedi for the Appellant/Applicant.
Mr. S T Sonawane for the Respondent.**

CORAM : R. M. SAVANT, J.

DATE : 09th June 2016

P.C.

1 The order dated 24/12/2014 by which order the Trial Court has refused to extend the protection to the Plaintiff's structure is taken exception to by way of the above Appeal from Order.

2 A notice under Section 351 of the Mumbai Municipal Corporation Act (for short "the said Act") came to be issued to the Appellant/Plaintiff and consequential notice under Section 488 was also issued resulting in the suit being filed by the Appellant being L C Suit No.414 of 2012. The Plaintiff it seems has voluntarily withdrawn the said suit. However, the Plaintiff has thereafter filed an application for restoration of the suit and along with the said application has filed a draft Notice of Motion for the protection being continued. The Trial Court has refused to continue the protection on the

ground that the suit has already been withdrawn by observing that “it was not inclined to accept the Plaintiff's request at least as of now.”

3 In view thereof no case for interference is made out. The above Appeal from order is accordingly dismissed. In view of the dismissal of the above Appeal from Order, Civil Application No.,161 of 2015 does not survive and the same to accordingly stand disposed of as such.

[R.M.SAVANT, J]