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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO.1809 OF 2013
WITH
NOTICE OF MOTION NO.541 OF 2015
WITH
CHAMBER SUMMONS NO.172 OF 2015**

Deepak Bajaj and Anr.

... Petitioners

Versus

Municipal Corporation of Greater Mumbai and Ors.

... Respondents

Mr. Pranesh J. Gada a/w Mr. Manish Khandelwal i/by M/s. Dhanuka
and Partners for the Petitioners.

Mr. Reis, Senior Counsel a/w Mrs. Shobha Ajitkumar for the
Respondent No.1 - BMC.

Mr. Vatsal Shah i/by M/s. S.T. Manek & Co. for the Respondent No.2.

Mr. Ameet Mehta i/by M/s. Solicix Lex for the Respondent Nos.4 to 10.

Dr. Vipin B. Kumar for the Applicant/ Intervenor.

**CORAM : A.S. OKA &
C.V. BHADANG, JJ.**

DATE : 15th JANUARY, 2016

PC.

1. Heard the learned counsel appearing for the Petitioners,
the learned counsel appearing for the Respondent Nos.4 to 10, the
learned Senior Counsel appearing for the Mumbai Municipal

Corporation and the learned counsel appearing for the second Respondent. Five hoardings displayed by the second Respondent are the subject matter of this Petition. The Municipal Corporation rejected the applications made by the second Respondent for renewal of licenses to display advertisements on the said five hoardings. First Appeal was preferred by the second Respondent against the said order. By the order dated 13th January, 2016 the said First Appeal preferred by the second Respondent has been dismissed. It is not in dispute that out of the five hoardings, one has come down and now only four hoardings are in existence as of today. Now there is a remedy available to the second Respondent to file a Second Appeal within a period of 30 days. The learned counsel appearing for the second Respondent states that a copy of the order has been served upon the second Respondent yesterday i.e. 14th January, 2016. Therefore, the second Respondent has time available upto 13th February, 2016 to prefer Second Appeal. It is obvious that now and even during the pendency of the Second Appeal, if preferred by the second Respondent, he cannot display any advertisements on the four hoardings. If the Second Appeal is dismissed, the Municipal Corporation will have to forthwith take steps to remove the hoardings. If the second Respondent succeeds in the Second Appeal, the Petitioners will have a remedy to challenge the order passed by the Second Appellate Authority.

2. Considering the orders passed by the Competent Authority of the first Respondent and the First Appellate Authority, we dispose of the Petition by passing the following order :-

ORDER

- (i) If the second Respondent fails to file a Second Appeal on or before 13th February, 2016, the first Respondent shall take immediate steps to remove the hoardings subject matter of this Petition;
- (ii) If the Second Appeal is preferred by the second Respondent, the same shall be disposed of within a period of three months from the date of filing of the Second Appeal. Needless to state that till the disposal of the Second Appeal, the second Respondent cannot display any advertisement on the hoardings subject matter of this Petition. The notice of the date fixed for hearing of the Second Appeal if preferred by the second Respondent shall be served to the Petitioners to enable the Petitioners to participate in the proceedings;
- (iii) If the Second Appeal is not preferred by the second Respondent within the stipulated time, the first Respondent shall give necessary intimation in writing in that behalf to the Petitioners as well as to the fourth to tenth

Respondents. The order passed on the Second Appeal if preferred by the second Respondent shall be also communicated by the first Respondent to the Petitioners as well as the fourth to tenth Respondents;

- (iv) If the Second Appeal is dismissed, the Municipal Corporation shall take action of removal of the hoardings on expiry of a period of 30 days from the date of service of the order to the second Respondent subject to right of the second Respondent to challenge the order of the Second Appellate Authority;
- (v) If the Appeal is allowed in its entirety or in relation to some of the hoardings, we make it clear that display of advertisement shall not be commenced by the second Respondent for a period of 30 days from the date on which the order of the Second Appellate Authority is communicated to the Petitioners and to the fourth to tenth Respondents to enable the said Respondents and the Petitioners to take appropriate steps;
- (vi) All contentions of the parties in the Second Appeal if preferred by the second Respondent are kept open;
- (vii) The Petition is disposed of on above terms;
- (viii) In the event there is violation of the order dated 30th July,

2012 passed in Writ Petition No.1132 of 2002, the Petitioners and the fourth to tenth Respondents can always file appropriate proceedings in accordance with law;

- (ix) All pending Chamber Summons and Notices of Motions are disposed of.

(C.V. BHADANG, J)

(A.S. OKA, J)