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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2510 OF 2015

Suresh Shivram Palekar & Anr.

... Petitioners

Versus

Municipal Corporation for Gr. Mumbai and Ors.

... Respondents

Mr. Uday Warunjikar i/by Mr. Siddhesh Ashok Pilankar for the
Petitioners.

Mrs. Geeta Jogalekar for the Respondent Nos.1 and 2 – BMC.

Mr. A.Y. Sakhare, Senior Counsel a/w Mr. Joel John Carlos for the
Respondent No.3.

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

DATE : 9th FEBRUARY, 2016

PC.

1. Heard the learned counsel appearing for the parties.
Considering the opinions of the structural Engineers/Structural Experts
on record, this Petition involves disputed questions of facts regarding
the present structural status of the building in question. In our view, this
question can be more appropriately decided by a Civil Court. As the
challenge is to the action under Section 354 of the Mumbai Municipal
Corporation Act, 1888, the bar under Section 515A of the said Act will
not be attracted. Hence, we dispose of the Petition by granting liberty
to the Petitioners to adopt appropriate proceedings before the Civil
Court. Ad-interim relief granted on 10th June, 2015 will continue to

operate for a period of one month subject to same terms and conditions. We make it clear that the prayer for ad-interim relief or interim relief will be considered by the Civil Court without being influenced by the ad-interim order passed by this Court. All contentions on merits are kept open.

(C.V. BHADANG, J)

(A.S. OKA, J)