

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO.662 OF 2014
IN
SUIT NO.431 OF 2001**

Lalbhai Hiralal Shah	...	Plaintiff
versus		
Prakash Jethalal Thakkar and Ors.	...	Defendants
and		
Municipal Corporation of Greater Mumbai	...	Applicant

Mr. Hemant Deshpande with Mr. Sandeep Patil, for BMC, Applicant to CHS.
Mr. A.K.Goel, for Plaintiff.
Ms. Nichani i/by Mr. A.K.Chauhan, for Defendant No.5.

CORAM: S.J. KATHAWALLA, J.

DATE: 14th JUNE, 2016

P.C.:

1. The above Suit was originally filed between Plaintiff and Defendant No.1 wherein the Plaintiff sought specific performance of the Suit agreement against Defendant No.1. Subsequently, amendments have been carried out to the Plaint and the other Defendants were joined in the Suit. An order directing parties to maintain status quo passed was passed.

2. The Corporation has issued Notices under Section 354 of the Mumbai Municipal Corporation Act, to the Defendant Nos.1 and 5 as far back as on 04-10-2013. The learned Advocate for the Corporation states that the said Notices have not been challenged. Instead, Defendant No.1 Landlord by his letter dated 16-10-2013

addressed to the Corporation interalia stated as under :

“Also as stated in my earlier correspondence and in view of the facts and circumstances of the case and considering the ruinous and dilapidated condition of the building, I have no objection if the corporation pulls down the said dilapidated building under Section 489 and I undertake to reimburse the corporation for the amount that may be used for the demolition”

2. The Corporation as and by way of abundant caution and in order to avoid any allegations of having committed contempt of any orders passed by this Court, has moved this Court seeking permission to proceed with the action required to be taken by the Corporation subsequent to the said Notices under Section 354 of the Act. Admittedly the Municipal Corporation is not a party to the above Suit. The order of status quo passed by this Court dated 24-07-2008 is applicable to the parties to the suit and not to the Corporation. The Corporation is at liberty to take action on the said Notices as per the law. The parties are at liberty to take steps impugning the action of the Corporation before the appropriate forum if so advised which shall be decided on its own merits.

3. The Chamber Summons is accordingly disposed of.

(S.J.KATHAWALLA, J.)