

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO. 35470 OF 2016  
WITH  
CIVIL APPLICATION (STAMP) NO. 1169 OF 2017  
AND  
CIVIL APPLICATION (STAMP) NO. 35471 OF 2016

Mohammed Ikhlaq Kasam Jetha .. Appellant  
vs.  
Municipal Corporation for Greater  
Bombay & Anr. .. Respondents

Mr. Ashok Pande for Appellant.  
Ms Bhakti Jogal for Applicant in CA(ST) No. 1169 of 2017.  
Ms M. M. More for MCGM.

**CORAM : M. S. SONAK, J.**  
**DATE: 08 FEBRUARY 2017**

**P.C :**

1] Learned counsel for the appellant and the respondent no. 1 agree that this appeal and the civil applications can be disposed of with the following order:

(A) The appellant will implead Mr. Tushar Salian, the applicant in civil application (stamp) no. 1169 of 2017 as a defendant in suit no. 3378 of 2016 forthwith. The necessary amendment to the plaint be carried out latest by 9 February 2017.

B] Ms Bhakti Jogal, who appears for Mr. Tushar Salian waives notice in the suit.

C] For the purposes of opposing the notice of motion, Mr. Tushar Salian shall be entitled to treat and rely upon the application seeking impleadment and the accompaniments thereto as the reply to the notice of motion. Copy of such application is furnished to the learned counsel appearing for the appellant as well as the MCGM.

D] In case of plaintiff desires to file any rejoinder, he shall be at liberty to do so.

E] The appellant (original plaintiff) and the defendants, which includes Mr. Tushar Salian, shall proceed with the hearing on the notice of motion in the suit on 9 February 2017, which is even otherwise, the scheduled date for hearing in the notice of motion.

F] The learned trial Judge shall dispose of the notice of motion as expeditiously as possible and in any case on or before 31 March 2017. All parties are directed to co-operate with the learned trial Judge in expeditious disposal of the notice of motion. Such disposal shall be on its own merits and in accordance with law. In disposing of the notice of motion, the learned trial Judge shall not be influenced by any observations in the impugned order.

G] Pending the disposal of the notice of motion, the parties are directed to maintain *status quo*.

2] Accordingly, the appeal and the civil applications are disposed of with the aforesaid directions and in the aforesaid terms.

3] All concerned to act on basis of authenticated copy of this order.

**(M. S. SONAK, J.)**

Chandka