

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

**CIVIL APPLICATION (ST) NO.3215 OF 2017
IN
APPEAL FROM ORDER (ST) NO.3213 OF 2017**

Krishna N. Tamang ..Applicant/Appellant

V/s.

Municipal Corporation of Gr.
Mumbai

..Respondent

Mr.Atul G. Damle, Senior Advocate a/w Ms.Manjiri Parasnis for the
Applicant/Appellant.

Mrs.M.M. More for the Respondent-MCGM.

Mr.Mahesh Salian, Chief Finance Officer present in Court.

CORAM : M. S. SONAK, J.

DATE : 15 FEBRUARY 2017.

P.C.

1. After this matter was argued for some time, Mr.Damle the learned Senior Advocate who appears for the appellant, on the basis of the instructions from the appellant states that the appellant will accept the suit premises, which are the subject matter of notice dated 08-09-2016 issued by the MCGM. Mr.Damle however submits that some protection be granted to the appellant, since, the appellant proposed to withdraw the Civil Suit L.C. No.62 of 2017, in which the impugned order has been made and to apply to the MCGM for regularization of the suit structure.

2. The request made by Mr.Damle is quite reasonable. Accordingly, leave is granted to the appellant to withdraw L.C. Suit No.62 of 2017 and the suit itself be disposed of as withdrawn.

3. The appellant is further permitted to make an application for regularization of the suit structure to the Executive Engineer Building Proposals, Western Suburban, MCGM within a period of two weeks from today. The appellant shall ensure that such application is complete in all respects and made in accordance with law and procedures as may be prescribed.

4. The concerned officer of the MCGM to dispose of such application, again, in accordance with law and on its own merits within a period of six weeks from the date of its receipt. If for any reason, the application is not disposed of within a period of six weeks, the appellant shall stop using the suit structure.

5. For a period of eight weeks from today, the MCGM shall not execute the impugned notice dated 08-09-2016. However, in the meanwhile, if the application for regularization is not disposed of, the MCGM, shall not demolish the suit structure until the application for regularization is decided. However, after a period of six weeks from the date of making of the application for regularization, the appellant shall not use the suit structure, which, has now been agreed to be illegal and unauthorized.

6. If no application for regularization is made within a period of two weeks from today, the MCGM shall be at liberty to enforce the notice dated 08-09-2016.

7. The proposal for regularization to be considered in accordance with law and on its own merits.
8. This appeal is disposed of in the aforesaid terms.
9. All concerned to act on the basis of the authenticated copy of this order.

(M. S. SONAK, J.)