

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 3597 OF 2011
IN
FIRST APPEAL NO. 2502 OF 2011

Municipal Corporation of Greater Mumbai	...Appellant
<i>Versus</i>	
Sayad Momin Hussain	...Respondent

Mrs MR Bhoir, for the Applicant-MCGM.
Mr KD Jha, for the Respondent.

CORAM: G.S. PATEL, J
DATED: 28th June 2017

PC:-

1. The Plaintiff's suit against the MCGM was decreed by an order dated 13th August 2010. The challenge to the MCGM's notice of 23rd November 2009 issued under Section 314 of the Mumbai Municipal Corporation Act 1888 succeeded and the MCGM was permanently restrained from taking any demolition action pursuant to that notice of 23rd November 2009.

2. The Appeal was admitted on 24th January 2012.

3. On behalf of the MCGM it is pointed out that it is not that the MCGM is reactivating the notice. Yet the MCGM appears to have called for a fresh hearing on 6th February 2017.

4. There is no question of granting a stay allowing the MCGM to proceed with the impugned notice in this fashion by calling fresh hearings today. In fact, the Trial Court has itself made it clear that the MCGM is always at liberty to issue a fresh notice with details of all measurements of the suit property and following the procedure mandated by law. The MCGM is certainly not restrained from taking or initiating fresh action in accordance with law.

5. Civil Application disposed of in these terms.

(G. S. PATEL, J.)