

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

**APPEAL FROM ORDER (ST) NO.8875 OF 2017
WITH
CIVIL APPLICATION (ST) NO.8876 OF 2017
IN
APPEAL FROM ORDER (ST) NO.8875 OF 2017**

Mrs.Sunita R. Pandiyan ..Appellant/Applicant
V/s.
Municipal Corporation of Gr.
Mumbai & Anr. ..Respondents

Mr.S.P. Chavan for the Appellant/Applicant.

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

CORAM : M. S. SONAK, J.

DATE : 05 APRIL 2017

P.C.

1. Heard Mr.Chavan for the appellant and Ms.More for the
Municipal Corporation of Greater Mumbai (MCGM).

2. On 27 March 2017, this Court made the following
order:-

1. *Upon production, taken on board.*

2. *Issue notice to the respondents, returnable
on 5 April 2017. Place the matter on Supplementary*

Board (High on Board). Till the next date, the parties shall maintain status-quo in respect of the suit structure.

3. *The learned counsel for the appellant points out that, as of now, the roof of the suit structure has already been demolished, since, ad-interim relief was declined by the learned Trial Judge. He says that appellants be granted liberty to apply to the learned Trial Judge for permission to cover the structure with a tarpaulin or a similar material of temporary nature. If the appellant does make any such application, the learned Trial Judge to decide such application in accordance with law and on its own merits. All concerned to act on the basis of the authenticated copy of this order.*

3. The learned counsel for the appellant points out that the appellant applied to the learned Trial Judge for permission to cover the structure with tarpaulin or some other material on temporary nature. He points out that such application has been rejected by the learned Trial Judge by observing that almost the entire structure has been demolished by the MCGM. For this purpose, the learned Trial Judge, has relied upon certain photographs placed on record by MCGM.

4. The learned counsel for the appellant submits that the

entire structure has not been demolished and in any case, he submits that the action of the MCGM was totally high handed and at the behest of private builder whose undertaking construction in the immediate neighbor room. He submits that the appellant may be permitted to take out an application for reconstruction of the suit structure.

5. At this stage, it is not appropriate for this Court to go into the rival contentions. However, if, the appellant seeks to establish that the action of the MCGM is high handed and on such basis, seeks to apply for some mandatory orders to permit reconstruction, the appellant, can always do so. Such application, if made, will have to be considered on its own merits and in accordance with law.

6. The learned counsel for the appellant states that such an application will be made within a period of one week from today. Such application if made the learned Trial Judge is directed to dispose within a period of six weeks. Until then the parties are directed to maintain status-quo.

7. The Officer of the MCGM and the appellant to visit the

site today itself at 4.00 p.m. and to take photographs, which photographs, to be placed on record before the learned trial Judge so that, there is no dispute with regard to what the status-quo is as on today. Thereafter, until the disposal of the Notice of Motion, the parties to maintain such status-quo. If within a period of one week, no such Notice of Motion was taken out, then this order of status-quo stand vacated.

8. With the aforesaid directions this Appeal from Order disposed of. The Civil Applications therein also do not survive and the same are disposed of.

9. It is made clear that this Court has not examined on the merits of the matter and therefore, all contentions of all the parties are left open.

(M. S. SONAK, J.)