

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

**APPEAL FROM ORDER (ST.) NO.9334 OF 2017
WITH
CIVIL APPLICATION (ST.) NO.9619 OF 2017**

Mr. Umidali Sultanali Jairazbhoy And Others	...	Appellants
Versus		
The Municipal Corporation of Greater Mumbai And Others	...	Respondents

.....

Mr. Atul Damle, Senior Advocate a/w Mr. Vaibhav Sugdare, Mr. Sushant Yadav, Ms. Disha Ramchandani i/b K. Ashar & Co., for the Appellants.
Ms. Madhuri More for Respondent Nos.1 to 3/MCGM.
Mr. S.U. Kamdar, Senior Advocate a/w Mr. Chirag Modi And Mr. Rishikesh Soni i/b Pandya & Poonawala for Respondent No.5.

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CORAM : S.C.GUPTE, J.

DATE : 12 APRIL 2017

P.C. :

. Heard learned Counsel for the parties. By consent of parties, the impugned order is substituted by the following order :-

2 The BEST undertaking will be entitled to erect street lights on the suit property, which is said to be a private road between two buildings described in paragraph-3 of the plaint. These street lights will be constructed as an ad-hoc measure permitted by this Court during the pendency of the suit and shall not prejudice any right claimed by the Plaintiffs with respect to the suit property. The question as to whether, the suit property continues to be a private street as described by the Plaintiffs

or is a public street under Section 306 of Mumbai Municipal Corporation Act 1888 as claimed by the Defendants, is kept open. Appeal from Order is disposed of accordingly.

3 In view of the disposal of the AO, the civil application does not survive and the same also disposed of.

(S.C. GUPTE, J.)