IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST) NO. 12040 OF 2017
WITH
CIVIL APPLICATION (ST) NO. 12044 OF 2017

Shri Bhimji Shivji Bhanushali ...Appellant
Vs.
Municipal Corporation of Greater Mumbai & Anr. ...Respondents

Mr.S.M. Suryawanshi for Appellant.
Ms.Madhuri More for Respondent No.1.
Ms.Nilam Pawar for Respondent No.2.

CORAM : S.C. GUPTE, J.

4 MAY 2017

P.C. :

Heard learned Counsel for the parties.

2 This AO challenges an order passed by the City Civil Court at Dindoshi, Mumbai dismissing the Appellant's notice of motion. The Appellant had filed the present suit challenging a notice by the Municipal Corporation of Greater Mumbai under Section 351 of the Mumbai Municipal Corporation Act. The Appellant's case is that he holds a census certificate as of 18 December 1980 in his name in respect of the suit structure designated as “PXC 7-1/1” which admeasures about 1500 sq.ft. The certificate relied upon by the Appellant was not believed by the trial court. The trial court, *prima facie,* found the document to be not genuine. This was so in the light of the communication issued in response to an RTI inquired by the Deputy Collector (Encroachment / Demolition), Malad, Mumbai. This particular communication, which is of 31 May 2012, and which forms part of the record of the case, clarifies that original hut

designated as “PXC 7-1/1” was in the name of Koli Pedru Gopal as per an earlier census of 1976 but that this particular census and all photo passes/certificates issued in pursuance thereof were cancelled by the State Government by its order dated 15 July 2000. In the light of this communication, which cannot possibly be contested, the trial court was of the view that there was a serious doubt about the genuineness of the census certificate relied upon by the Appellant.

3 Learned Counsel for the Appellant submits that on a similar application made by his client claiming the occupation of the same structure, i.e. PXC 7-1/1, the same officer in the office of the Deputy Collector (Encroachment / Demolition), Malad, Mumbai has simply stated that all census certificates and photopasses issued in respect of the census scheme of 1976 have been cancelled and accordingly, the Appellant's request could not be accepted. Learned Counsel submits that this discrepancy castes a doubt over the communication relied upon by the trial court. It is pertinent to note that in all communications concerning hutments in the area, particularly Joseph Compound, Malwani, Malad, the office of the Deputy Collector has taken a consistent stand that all census certificates and photopasses issued in respect of slum census of 1976 have been cancelled.

4 In the premises, *prima facie,* the conclusion of the trial court as to the genuineness of the census certificate relied upon by the Appellant herein cannot be said to be suffering from any infirmity. There is, thus, no merit in the appeal from order and the same is dismissed. No order as to costs.

5 In view of the dismissal of the AO, the civil application does not survive and the same is also disposed of.

(S.C. GUPTE, J.)