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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER ST NO. 14222 OF 2017
WITH
CIVIL APPLICATION ST NO. 14223 OF 2017

Nilkanth Coop Hsg Soc Ltd & Ors	...Appellants
<i>Versus</i>	
Dev Engineers & Ors	...Respondents

Mr JG Damani, *for the Appellants.*
Mr Saha Joydeb, *for Respondents Nos. 2 to 6.*
Mr Pradeep Thorat, *with MR Bhoir, for Respondent No. 7-MCGM.*
Mr Pramod P Chakane, *SE (Road-W.9), A/South, Officer of*
MCGM, is present.

CORAM: G.S. PATEL, J
DATED: 18th July 2017

PC:-

1. Mr Thorat confirms that the work by MCGM is complete. Its personnel and workers are off the site. The surface has been restored to a level condition.

2. There is a complaint by the Appellant-Society that part of “its property” has been converted into a road. This is a matter that will have to be established in suitable proceedings in the Court of competent jurisdiction.

3. The plaint itself is one to such Corporation was not made a party. This in itself is surprising. Secondly, the only reliefs in prayer clauses (a) to (c) were to prevent certain private properties including other societies from doing any work. Prayer clause (d) ask for an order allowing the Plaintiff to erect a compound wall around the suit land. That is a prayer that is yet to be decided and it is a private dispute between the Plaintiffs and the Defendants. It has nothing to do with municipal works. If the Plaintiff is entitled to put up a compound wall, the Plaintiff must obtain an order of the Court declaring title and establishing boundaries. This claim of title is seriously disputed by the private party-Defendants who say that these are common areas and they are not of the ownership of the Plaintiff Society, which is in any case a lessee.

4. In the course of supervising the completion of municipal works such as drains or roads or road surfacing, I am not prepared to enter into a controversy that depends entirely on the determination of title after evidence is led.

5. The Appeal is disposed of in these terms. There will be no order as to costs.

6. All contentions are left open to be determined in the Suit.

7. The Civil Application does not survive and is disposed of as infructuous.

(G. S. PATEL, J)