

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER ST NO. 14457 OF 2017
WITH
CIVIL APPLICATION ST NO. 14458 OF 2017

Amit Building Material Suppliers (I) Pvt Ltd	...Appellants
<i>Versus</i>	
Municipal Corporation of Greater Bombay	...Respondent

Mr Ranjit Thorat, Senior Advocate, i/b Prashant Surve, for the
Appellants.

Ms Madhuri More, for the Respondent/MCGM.

CORAM: G.S. PATEL, J

DATED: 12th June 2017

PC:-

1. The Appeal is directed against an order dated 24th May 2017. The Plaintiffs challenge a notice dated 28th September 2016 issued by the Assistant Engineer (Building & Factories, III Ward M/East), Municipal Corporation of Greater Bombay (“MCGM”) under Section 55 of the Maharashtra Regional & Town Planning Act 1966, saying that the Plaintiffs’ temporary ready mix concrete plant was unauthorized, and calling upon the Plaintiff to remove this within 15 days.

2. The plaint points out that the Plaintiffs have obtained authorizations or permission from the Fire Department, the Maharashtra Pollution Control Board (“**MPCB**”) and so on. Ms More for the MCGM says that permission from the Executive Engineer (Building Proposals), MCGM was not obtained. Even if this be so, this was not a fit case to issue a notice in this fashion under Section 55. Moreover, the Plaintiffs responded to the notice on 12th November 2016 pointing out that the permissions from the Fire Brigade and Environment Department were already in hand, that remarks had been obtained from the Building Proposals Department and that the MPCB has granted its no objection certificate. There was also an application of 13th May 2017 for a formal permission and to which there is no reply.

3. The order under Appeal is unfortunate. It contains no reasons at all. It only says this:

“Ad-interim rejected. Notice of Motion allowed to register.
Adjourned to 16.06.2017.”

4. It is impossible to assess any such order. Even minimal reasons are lacking.

5. Mr Thorat on behalf of the Appellants states that a formal application will be made within ten days from today to the Executive Engineer, Building Proposals Department, MCGM. The MCGM will consider this application on merits having regard to all relevant factors including the Zoning Policy. That application will be decided

uninfluenced either by the refusal of ad-interim relief, the impugned notice, or this order.

6. Till then, there will be ad-interim injunction in terms of prayer clause (c) of Civil Application St. No. 14458 of 2017, which reads thus:

"(c) That pending the hearing and final disposal of the Appeal from Order the Respondents, their offices and servants be temporarily restrained by an Order of injunction of this Hon'ble Court from demolishing or pulling down or removing the premises or any portion thereof in pursuance of the Notice U/s 55 of the MRTP bearing No. ME/DO3ME/141/55-MRTP ACT/ME 259NO1/28-09-2016 dated 28.09.2016 at Exhibit "G" to the Plaint."

7. The stay will operate for a period of ten days after the Executive Engineer, Building Proposals Department, MCGM considers the Appellants' application. The Appellants/Plaintiffs will be at liberty to renew the application for ad-interim reliefs in the Notice of Motion already filed before the City Civil Court, Bombay, if necessary.

8. The Appeal and the Civil Application are disposed of in these terms with no order as to costs.

(G. S. PATEL, J.)