

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER (ST) NO. 14886 OF 2017
WITH
CIVIL APPLICATION (ST) NO. 14887 OF 2017**

Three View Co-operative Housing Society Ltd	...Appellants
<i>Versus</i>	
Abdus Samad AA Lakdawala	...Respondent

Mr Khan Javed Akhtar, for the Appellants.
Mr Anil Joshi, i/b SS Redekar, for the Respondent.

CORAM: G.S. PATEL, J
DATED: 8th June 2017

PC:-

1. By consent, the impugned order dated 6th May 2017 is set aside. The parties are agreed that the following order will dispose of the Appeal filed by the Defendant to the Suit.
2. The dispute is in regard to a hoarding that is mounted on a steel work frame. It is situated at Prabhadevi, opposite Bengal Chemicals. The Plaintiff's hoarding is evidently an old structure in a state of disrepair. The reference here to a hoarding is a reference to the display area and not to the supporting metal frame structure.

3. The Plaintiff claims to have acquired rights to put up this structure and hoarding from the original developer in the early 1970s. This is disputed. It is not in dispute however that the structure and hoarding are in the property of the Defendant Society. However, at present, the Plaintiff does not have a valid license for the hoarding; the existing license expired and there is a dispute with the MCGM regarding the renewal. That matter is as yet pending before the City Civil Court.

4. I am informed that the MCGM has directed removal of the hoarding and the structure but the Plaintiff has obtained protective orders from the City Civil Court.

5. The immediate concern is not about the supporting structure itself but about the hoarding. The photograph at page 208 of the paperbook *prima facie* indicates that this hoarding comprises several metal sheets that are broken and might at any time, particularly in the monsoon or in high winds, collapse, and pose a clear and present danger to the Defendant Society, its members and their property.

6. The Respondent is present in Court. He instructs his Advocate to make a statement that within a period of three weeks from today he will make arrangement to remove the hoarding. It is clarified that he is not required to remove the supporting structure. In any case there is a second hoarding above the one in question and this might well require the supporting structure itself. For this reason, a removal of the supporting structure without necessary directions from the MCGM may not be possible at this stage.

7. While removing the hoarding, sufficient care must be taken that no damage is caused to the Defendant society, members of the society, their vehicles, or the society building. It will be the responsibility of the Plaintiff/Respondent to make the necessary arrangements to ensure that the hoarding is brought down safely. It is also his responsibility to dispose of the material that is brought down. It is not to be stored in the compound premises of the society except for a maximum period of 24 hours and it is to be removed from the site. The entire costs of this will be borne by the Plaintiff/Respondent and not by the Society.

8. This order is without prejudice to the rights and contentions of the Plaintiff in regard to the renewal of its license or its application for repairs of the structure. Those Applications will be considered on their own merits and uninfluenced by the present order.

9. The Appeal from Order and the Civil Application are both disposed of in these terms. There will be no order as to costs.

(G. S. PATEL, J.)