

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 396 OF 2017
WITH
CIVIL APPLICATION NO. 515 OF 2017**

Nanji Dana Patel & Anr	...Appellants
<i>Versus</i>	
Municipal Corporation for Grater Mumbai	...Respondent

Mr J Reis, Senior Advocate, a/w Mr Nitin Raut, Mrs BP Vas, J Vas, Sunita S, i/b P Vas & Co, for the Appellants.

Mr Pradeep Thorat, a/w Mrs Madhuri More, for Respondent-MCGM.

Mr Suniel Tavade, Assistant Engineer ((B & F), K/W Ward, present.

CORAM: G.S. PATEL, J

DATED: 21st June 2017

PC:-

1. Mr Thorat has instructions to withdraw the order dated 22nd May 2017 in the MCGM Notice dated 23rd September 2016 under Section 351, and which was the subject matter of the challenge in the suit. The MCGM notice itself and consequently the order passed on it by the Assistant Engineer are withdrawn.

2. In view of this, the Appeal does not survive and is infructuous. It is disposed of accordingly. The Civil Application also does not survive and is disposed of as infructuous.

3. Indeed, the L.C. Suit No. 1700 of 2017 itself is infructuous. By consent, the suit is withdrawn to this Court from the City Court, taken up and is dismissed as withdrawn. All pending interim applications in the suit are dismissed as infructuous.

4. A copy of this order be sent to the Registrar, City Civil Court for record and updating, and to be placed before the Court to which the suit is assigned.

5. It is clarified that this order will not prevent the MCGM for proceeding against the noticed structure in accordance with the law. This order is not to be construed to mean that the noticed structure has been held to be authorised or regularised.

(G. S. PATEL, J.)