

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 1333 OF 2012

Mrs. Sheetal D. Mishra

.. Appellant

vs.

The Municipal Corporation
of Greater Mumbai and ors.

.. Respondents

None for the Appellant.

Ms M.M. More for the Respondent-MCGM

CORAM : M. S. SONAK, J.

DATE : 20 JANUARY 2017.

P.C. :-

1] On 5 January 2017, this court made the following order:

“1. Since the appellant appears in person, the Registry issue notice to the appellant that the matter will appear for final hearing on 19 January 2017.

2. Despite such notice the appellant chooses not to remain present, this Court shall consider dismissing the appeal for non-prosecution.”

2] There is an endorsement in the record sheet to the effect that notice was issued to the appellant in person and the order dated 5 January 2017 is communicated to him (sic).

3] Today, when the matter is called out, the appellant is not present. Ms M.M. More, learned counsel appears for the Municipal Corporation of Greater Mumbai (MCGM).

4] The challenge in the appeal is to the order dated 9 May 2012, by which, notice of motion seeking interim injunction restraining the

MCGM and Education Officer from grant of permission to defendant No.3 Trust or any other institution except Colombia Educational Charitable Trust came up to be rejected. This court, by its order dated 18 June 2013, admitted the appeal but observed that there cannot be any interim relief when the notice of motion has been dismissed by the trial court.

5] The suit in which the interim relief was applied for was instituted in the year 2010. At this stage, it is expected that the suit must be at an advanced stage. In any case, the appellant can always be granted liberty to seek expeditious disposal of the suit itself, if the suit is not already disposed of.

6] Ms More submits that at present the MCGM is running the school. This statement is made by Ms More, on basis of instructions from the Administrative Officer of the School, K-East Ward. In fact, Ms More invites my attention to communication dated 17 January 2017 addressed by the Administrative Officer, in which, the following is stated:

With reference to above matter, the present status is as follows. After receiving lot of complaints from parents of children studying in school run by Patel education Trust about collection of fees, MCGM took action and all permission given were cancelled. And from 2014-15 onwards the school is in the possession of MCGM and is run as Nityanand Marg Mumbai Public school. It is a Municipal school and all staff working in the school are appointed by MCGM.

We would like to bring to your notice that Mr. Pramod Vasani of Patel Education Trust paid partial rent of Rs.3,24,000/- from 2011 to 2014, but revised amount of rent with penalty of Rs.1,81,872/- is pending from their side. Even after repeated reminder by issuing letters till today, this amount

*is not paid by Patel Education Trust.
Submitted for information and necessary action.
Administrative Officer (School)
K/East Ward.*

7] Possibly, in view of aforesaid, the appellant is no longer interested in pursuing the present appeal. In any case, in view of the aforesaid subsequent development, there is no need to examine the legality and validity of the impugned order. For all the aforesaid reasons, this appeal is disposed of. There shall, however, be no order as to costs.

8] It is clarified that in case the suit is not disposed of, then the same should be disposed of in accordance with law and on its own merits without being influenced by any observations in the impugned order or for that matter the present order.

(M. S. SONAK, J.)

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