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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 655 OF 2016
WITH
CIVIL APPLICATION NO. 682 OF 2017

Jashvant Chimanlal Shah & Ors	...Appellants
<i>Versus</i>	
New Gopal Premises Coop Soc Ltd	...Respondent

None for the Appellant.

Mr Vishal Kanade, i/b M/s. Pramodkumar & Co., for Respondents
Nos. 5 to 8.

CORAM: G.S. PATEL, J
DATED: 3rd August 2017

PC:-

1. On 17th July 2017, Mr Damani for the Appellants withdrew his appeal. This was an unconditional withdrawal with a direction that the notice of motion be decided on its own merits. In paragraph 3, I noted:

"3. There is no ad-interim protection. However, if there is an imminent threat or reasonable anticipation of immediate action by the MCGM, liberty to the Appellants to move the Trial Court for urgent reliefs, interim or ad-interim."

2. Mr Kanade for Respondents Nos. 5 to 8 says that this was done without notice to the Respondents. He pointed this out on a subsequent on a subsequent date, 19th July 2017. He attempted to give notice to Mr Damani, who was not available on that day.

3. Mr Damani is not present today. The matter is listed on the supplementary board.

4. It is sufficient to note that the liberty granted to the Appellant to move the Trial Court against any imminent action by the MCGM obviously and necessarily means that a notice must also be given to the Respondents. The reason is that the MCGM is not itself a party to the present suit. Hence, if any application is made by the Plaintiff-Appellant in regard to the premises in question, and since the dispute is between the Appellant and the Respondents, it is only fair that the Respondents be given notice and be heard before any order is passed.

5. I may also clarify that I have not interfered with any order of the Court below. In fact, I have noted that there is no **ad-interim protection** to the Appellant. Consequently, the liberty in paragraph 3 is not to be used and cannot be used by the Appellant to demand from the MCGM that because of this order any plans should not be sanctioned or IOD or other permissions should not be granted. Those are matters that will have to be addressed on their merits.

6. No further directions are necessary.

(G. S. PATEL, J)