

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

APPEAL FROM ORDER (ST.) NO. 20768 OF 2017

Purnima Lumbini Buddha Vihar
Seva Sanstha & Anr.

...Appellants

Versus

The Municipal Corporation of Greater
Mumbai & Anr.

...Respondents

WITH

**CIVIL APPLICATION (ST.) NO. 20769 OF 2017
IN
APPEAL FROM ORDER (ST.) NO.20768 OF 2017**

Purnima Lumbini Buddha Vihar
Seva Sanstha & Anr.

...Applicants

Versus

The Municipal Corporation of Greater
Mumbai & Anr.

...Respondents

WITH

**CIVIL APPLICATION (ST.) NO. 23275 OF 2017
IN
APPEAL FROM ORDER (ST.) NO.20768 OF 2017**

Purnima Lumbini Buddha Vihar
Seva Sanstha & Anr.

...Applicants

Versus

The Municipal Corporation of Greater
Mumbai & Anr.

...Respondents

.....

Mr.Jagdish N. Jayale for the Appellants.

Mr.Anil Singh, Senior Advocate a/w. Ms.Madhuri More and Ms. V.S.Gharpure for Respondent Nos. 1 and 2-Municipal Corporation.

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CORAM: MRS.MRIDULA BHATKAR, J.

DATED: AUGUST 21, 2017

P.C. :

1. This Appeal from Order is directed against the order dated 18.07.2017 passed by the learned Ad-hoc Judge, City Civil Court, Borivali Div. Dindoshi, Mumbai, thereby rejecting Notice of Motion No. 1356 of 2017 in L.C. Suit No. 938 of 2017.

2. The appellants/original plaintiffs have filed the Suit thereby challenging a notice of demolition of the suit structure by way of Notice of Motion. The plaintiffs have sought interim protection to the suit structure, which was rejected by the learned Judge and, therefore, this Appeal from Order is filed.

3. Learned Senior Counsel for respondent nos. 1 and 2- Municipal Corporation informs the Court that the suit structure is already demolished on 11.08.2017.

4. Learned counsel for the appellants/original plaintiffs submits that the trial Court has rejected the Notice of Motion by order dated 18.07.2017 and thereafter, immediately on 24.07.2017, the appellants/original plaintiffs filed this Appeal from Order against the said order and gave a notice to the respondent- Municipal Corporation about filing of the Appeal from Order in the High Court. He further submits that consequently the matter was mentioned before the Court and the same was posted before the Court on 14.08.2017 by way of circulation. However, due to paucity of time, the matter could not be reached and it is appeared on today's board. He further submits that as the Municipal Corporation has received the notice about filing of the Appeal from Order before this Court, the Municipal Corporation ought not to have demolished the suit structure.

5. The submissions of the learned counsel for the appellants cannot be appreciated only on the ground that the trial Court has rejected the prayer of granting ad-interim protection and no protection was granted by the High Court till 11.08.2017 when the Municipal Corporation has taken action of demolition of the suit structure.

6. In view thereof, the Appeal from Order has become infructuous.

Nothing remains in this Appeal from Order and hence dismissed.

7. In view of the disposal of the Appeal from Order, nothing survive in the Civil Applications and the same are disposed of as such.

(MRIDULA BHATKAR, J.)