

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER (ST.)NO.22607 OF 2017
WITH
CIVIL APPLICATION (ST.)NO.22608 OF 2017
IN
APPEAL FROM ORDER (ST.)NO.22607 OF 2017**

Assumpta PereiraAppellant
Versus
Mumbai Municipal Corporation of
Greater Mumbai.Respondent

**WITH
APPEAL FROM ORDER (ST.)NO.22609 OF 2017
WITH
CIVIL APPLICATION (ST.)NO.22610 OF 2017
IN
APPEAL FROM ORDER (ST.)NO.22609 OF 2017**

Sirajuddin A. HamidAppellant
Versus
Mumbai Municipal Corporation of
Greater Mumbai.Respondent

**WITH
APPEAL FROM ORDER (ST.)NO.22613 OF 2017
WITH
CIVIL APPLICATION (ST.)NO.22616 OF 2017
IN
APPEAL FROM ORDER (ST.)NO.22613 OF 2017**

Nizamuddin Abdul HamidAppellant
Versus
Mumbai Municipal Corporation of
Greater Mumbai.Respondent

**WITH
APPEAL FROM ORDER (ST.)NO.22620 OF 2017
WITH
CIVIL APPLICATION (ST.)NO.22621 OF 2017
IN
APPEAL FROM ORDER (ST.)NO.22620 OF 2017**

Mehboob Basha ShaikhAppellant
Versus
Mumbai Municipal Corporation of
Greater Mumbai.Respondent

**WITH
APPEAL FROM ORDER (ST.)NO.22622 OF 2017
WITH
CIVIL APPLICATION (ST.)NO.22624 OF 2017
IN
APPEAL FROM ORDER (ST.)NO.22622 OF 2017**

Syed Yousuf MohammedAppellant
Versus
Mumbai Municipal Corporation of
Greater Mumbai.Respondent

**WITH
APPEAL FROM ORDER (ST.)NO.22628 OF 2017
WITH
CIVIL APPLICATION (ST.)NO.22629 OF 2017
IN
APPEAL FROM ORDER (ST.)NO.22628 OF 2017**

Mohd. Usman KhanAppellant
Versus
Mumbai Municipal Corporation of
Greater Mumbai.Respondent

**WITH
APPEAL FROM ORDER (ST.)NO.22631 OF 2017
WITH
CIVIL APPLICATION (ST.)NO.22633 OF 2017
IN
APPEAL FROM ORDER (ST.)NO.22631 OF 2017**

Shamsunissa R. Shaikh

....Appellant

Versus

Mumbai Municipal Corporation of
Greater Mumbai.

....Respondent

**WITH
APPEAL FROM ORDER (ST.)NO.22638 OF 2017
WITH
CIVIL APPLICATION (ST.)NO.22639 OF 2017
IN
APPEAL FROM ORDER (ST.)NO.22638 OF 2017**

Murtuza Banoo,
since deceased through
legal heirs:-

Zawar Ali Nasir Hussain Khan

....Appellant

Versus

Mumbai Municipal Corporation of
Greater Mumbai.

....Respondent

**WITH
APPEAL FROM ORDER (ST.)NO.22641 OF 2017
WITH
CIVIL APPLICATION (ST.)NO.22642 OF 2017
IN
APPEAL FROM ORDER (ST.)NO.22641 OF 2017**

Shabana Gulam Shaikh

....Appellant

Versus

Mumbai Municipal Corporation of
Greater Mumbai.

....Respondent

Mr. Pradeep J. Thorat for the Appellant in all AO's.
Mrs. M.S. Bhoir for the Respondent in all AO's.

CORAM: MRS. MRIDULA BHATKAR, J.
DATED: AUGUST 11, 2017

P.C. :

1. Upon urgent mentioning, taken on production board.
2. In all these appeals, the orders dated 21.07.2017 passed by the learned Judge, City Civil Court at Dindoshi, Mumbai in L.C.Suit No.1852 of 2017, 1857 of 2017, 1855 of 2017, 1858 of 2017, 1854 of 2017, 1856 of 2017, 1859 of 2017, 1853 of 2017 and 1860 of 2017 refusing ad-interim relief respectively are challenged.
3. In the respective suits, the plaintiffs have challenged the order dated 14.06.2017 issued by the respondent Corporation. The appellants/original plaintiffs are the 9 stall holders at Linking Road, Mumbai. By an order dated 14.06.2017 their licences are cancelled. As the learned Judge has refused ad-interim relief, these appeals are filed.
5. Learned counsel for the appellants has submitted that these stall holders are given the licences since more than 30 years. He pointed out that a similar issue was before the Division Bench in Writ Petition (L)

No.128 of 2017 and in the said writ petition, by order dated 23.01.2017, the Division Bench of this Court has granted protection to the stall holders/petitioners i.e. Linking Road Stalls Owners Welfare Association. The learned Counsel further submitted that these nine stall holders are not members of the Linking Road Stalls Owners Welfare Association and, therefore, are not protected by the said order.

6. Learned counsel for the respondents opposes these appeals on the ground that the licences issued under Section 313A & B of the Mumbai Municipal Corporation Act, 1888 are cancelled by the Corporation and earlier the Corporation had issued 2-3 letters pointing out the breach of the conditions of the licence by the appellants.

6. Heard submissions. The Corporation has not yet filed reply. In view of the order passed by the Division Bench dated 23.01.2017, it appears prima facie that the case of the present appellants is similar to the petitioners in the said writ petition. Therefore, only on this ground, by way of parity, ad-interim protection is granted till the hearing of the Notice of Motion in all the matters. The impugned orders dated 21.07.2017 passed in the Motions are hereby set aside. The Corporation not to take any coercive action till hearing of the Notice of Motion.

7. The respondent Corporation shall file reply to the Notice of Motion. If the reply is not filed till 28.08.2017, the trial Court to decide and hear the Notices of Motion by 18.09.2017.

8. In view of the above submission, the appeals from order are disposed of.

(MRIDULA BHATKAR, J.)