

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 942 OF 2014
WITH
CIVIL APPLICATION NO. 1147 OF 2014

Shaikh Aijaz Ahmed

.. Appellant

vs.

The Municipal Corporation
of Greater Mumbai

.. Respondent

Mr. B. S. Shukla for the Appellant.

Ms M.M. More for the MCGM-Respondent.

CORAM : M. S. SONAK, J.

DATE : 15 FEBRUARY 2017.

P.C. :-

1] Heard Mr. Shukla, learned counsel for the appellant and Mrs. More, learned counsel for the respondent-Municipal Corporation of Greater Mumbai (MCGM).

2] Ms More, learned counsel for the respondent - MCGM, is perhaps right in stating that there is no case made out to interfere with the impugned order. However, it needs to be noted that the appellant-plaintiff was protected by an ad-interim order, until, the same was vacated by the impugned order dated 5 September 2014. Thereafter, on 10 September 2014, this court, directed both the parties to maintain *status quo*. This order has continued till date. Mr. Shukla, learned counsel for the appellant, submits that the appellant-plaintiff has already filed affidavit-in-lieu of examination in chief and in that sense, the trial in the suit has also commenced.

3] Upon cumulative consideration of the aforesaid circumstances, it will be appropriate if learned Trial Judge is directed to dispose of the main suit itself, as expeditiously as possible and in any case within a period of six months from today. The *status quo* order, which is in operation can continue pending the suit.

4] It is made clear that the continuance of such *status quo* is not on merits as such, but taking into consideration the circumstances that it will be appropriate if the suit itself is disposed of expeditiously. In case, therefore, the suit is ultimately dismissed and the appellant chooses to institute an appeal against such decree, it will be open to the appellant to make out a case for grant of interim relief, but it will not be open to the appellant merely rely upon the circumstances that the *status quo* order was continued by this court pending disposal of the suit. This also takes care of apprehension expressed by Ms More, learned counsel for the MCGM that if the *status quo* order is extended, the appellant might routinely seek for continuance of such relief even after the suit is dismissed and pending disposal of eventual appeal, without making out any case, but only on the basis of such continuance.

5] This appeal is accordingly, disposed of in the aforesaid terms. The civil application for stay does not survive and the same is also disposed of.

6] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)