

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER (St.) No. 23791 OF 2017
WITH
CIVIL APPLICATION (St.) No. 23793 OF 2017**

Dayashankar Bhagwandin Mourya ... Appellant/Applicant
Vs.
The Municipal Corporation of Greater
Mumbai ... Respondent

Mr. S.S. Redekar, Advocate for the appellant/applicant.
Mrs. Madhuri More, Advocate for respondent/Corporation.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 30th October, 2017.

P.C.:

Admit. By consent, the Appeal from Order is heard finally and decided at the stage of admission.

2. This Appeal from Order is directed against the order dated 27th March, 2017 passed by the learned Adhoc Judge, City Civil Court, Greater Mumbai. The appellant/plaintiff has filed the suit challenging the notice dated 23rd June, 2011 issued under section 314 of the Mumbai Municipal Corporation Act. The plaintiff is an owner of Pan-Beedi shop. The respondent/Corporation has given notice to the appellant for removal of the structure, as the suit structure according to the Corporation was not in existence prior to 1st January, 1995.

3. The learned counsel for the appellant submitted that the Assistant Municipal Corporation, N-Ward has not considered the documents, i.e., electricity bill dated 7th June, 1991 issued by BSES Ltd. for electricity connection in the suit shop and the letter given by the Manager-Tech, Reliance Energy Ltd. dated 12th April, 2006 disclosing the information about the date of electricity supply as on 17th February, 1990 in the suit shop.

4. On perusal of the impugned order and the order of the Assistant Municipal Corporation, N-Ward, I have not come across discussion on these two documents and also about giving electricity connection to the suit shop. On query, I am informed that the appellant/plaintiff has filed the affidavit of evidence and the matter is now for exhibiting of the documents and for cross-examination of the plaintiff by the defendants. Under such circumstances, the impugned order dated 27th March, 2017 is hereby set aside and ad-interim relief which was granted earlier by the trial Court protecting the suit structure is hereby continued till disposal of the suit. The trial Court to proceed with the matter. Both the parties are directed to cooperate the Court and not to seek adjournment. The trial Court is requested to complete the trial within six months from today.

5. Appeal from Order is disposed of. Civil Application is also accordingly disposed of.

(MRIDULA BHATKAR, J.)