Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST.) NO. 24790 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 24791 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 24793 OF 2017

The Municipal Corporation of
Greater Mumbai … Appellant/Applicant
Vs.
B.H. Chemburkar Mandai Licensee's
Association & Ors. ... Respondents

Mr. F.M. Reis, Senior Advocate a/w. Ms. Madhuri More, Advocate for the appellant/Corporation.
Mr. Ajit Tamhane a/w. Mr. Ashish Ghadge i/b. M/s. Tamhane & Co., Advocate for respondent no. 1.
Mr. H.V. Holamagi, Advocate for respondent nos. 2 to 9.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **12th October, 2017.**

P.C.:

The learned counsel Mr. Holamagi wants to file Vakalatnama. Registry to accept the Vakalatnama filed by the learned counsel.

2. Today, Mr. Nishikant M. Luman, Assistant Engineer, Municipal Corporation of Greater Mumbai files affidavit dated 11th October, 2017 stating that the Corporation wants to develop the market by its own by appointing the contractor.

3. The issue before this Court in Appeal from Order is very limited, as the water supply and electricity connection of the stalls were directed to be restored. I am informed by the learned senior counsel that pursuant to the order dated 23rd June, 2017 passed by the learned Judge of the City Civil Court, Greater Mumbai in draft Notice of Motion, water supply and electricity connection is restored. The learned senior counsel submitted that today two Motions are pending in the said suit. In the suit, notice of vacating the premises and shifting to other place is challenged. Thus, the scope of this Appeal from Order is limited. However, by way of indulgence, with the view to take out some via media as submitted by the parties and based on the submissions of learned senior counsel for the Corporation, this affidavit-in-reply is filed.

4. The learned counsel for respondent no. 1 submitted that respondent no. 1 has filed Writ Petition No. 2361 of 2017 and it is fixed before the Division Bench of this Court on 8th November, 2017 and notice is given to the Corporation. He further submitted that in the Writ Petition, respondent no. 1/Licensee's Association has challenged the order passed by the Corporation of cancellation of IOD and not to dispossess the members of the Association from the

premises.

5. The learned senior counsel submitted that the building is in dilapidated condition and as per the report of the Structural Engineer, the building falls under “C-1” category.

6. Under such circumstances, as the Writ Petition is pending and similar relief is sought before the City Civil Court, no indulgence is required by this Court in this issue. As the water supply and electricity connection is restored, the trial Court to expedite the Notice of Motion nos. 3209 of 2016 and 2135 of 2017 on or before 30th November, 2017. The defendant to file reply to the Notice of Motions, if any, on or before 31st October, 2017.

7. Appeal from Order is disposed of. Civil Applications are also accordingly disposed of.

(MRIDULA BHATKAR, J.)