

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 991 OF 2016
WITH
CIVIL APPLICATION NO. 1251 OF 2016

Mr. Nelson Francis Bugri and ors. .. Appellants.
vs.
The Municipal Corporation of
Greater Mumbai & ors. .. Respondents.

Mr. R.P. Ojha for the Appellants.
Mr. Shoaib Memon h/f. Ms Iram Memon for Respondent No.2.

CORAM : M. S. SONAK, J.
DATE : 22 FEBRUARY 2017.

P.C. :-

1] The challenge in this appeal is to the impugned orders dated 17 September 2016 / 21 September 2016, by which, learned Trial Judge has declined ad-interim relief to the appellants restraining the respondents from undertaking any constructions in the suit property.

2] The notice of motion is now scheduled for hearing on 5 March 2017. The necessary affidavits-in-reply and rejoinders, have already been filed. If this is the position, there is no necessity to entertain the present appeal, at this stage. Instead, the interest of justice would be met if learned Trial Judge is directed to hear the notice of motion itself on 5 March 2017 as scheduled and disposed of the same one way or the other, as expeditiously as possible and in any case before 15 April 2017.

3] Accordingly, the directions to the aforesaid effect are hereby issued. Further, it is clarified that in disposing of the notice of

motion, learned Trial Judge need not be influenced by any of the observations made in the impugned order dated 21 September 2016 or the circumstance that this appeal is not being entertained by this court. The notice of motion is to be disposed of on its own merits and in accordance with law.

4] With the aforesaid observations, this appeal is disposed of.

5] Upon disposal of the appeal, the civil application does not survive and the same are also disposed of.

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

(M. S. SONAK, J.)

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