

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER (ST.) 31261 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 31262 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 31261 OF 2017**

Mrs.Avani Ashok Shah & Ors. ...Appellants

Versus

Municipal Corporation for Greater Mumbai
& Anr. ...Respondents

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Mr.Anand Pande for the Appellants.
Mrs.Madhuri More for the Respondents/Municipal Corporation.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: NOVEMBER 10, 2017**

P.C. :

1. Upon urgent mentioning, taken on Production Board.

2. This Appeal from Order is directed against the order dated 07.11.2017 passed by the learned Judge, City Civil Court, Gr. Bombay, in Notice of Motion No. 3809 of 2017 in L.C.Suit No. 2545 of 2016 thereby dismissing Notice of Motion No. 3809 of 2017.

3. The Appellants/Plaintiffs have filed a Suit for injunction against the Defendants/Respondents- Municipal Corporation that they are not to be evicted from their respective premises. The Appellants/Plaintiffs have taken out Notice of Motion No. 4511 of 2016 in L.C.Suit No. 2545 of 2016. The occupants were declared as trespassers and they are sought to be evicted from the suit premises. After hearing the submissions of the parties, the learned Judge, City Civil Court has considered the merits of the case and dismissed Notice of Motion No. 4511 of 2016. The learned Judge has further directed the Plaintiffs to vacate and remove themselves from the premises in the suit building within a period of four weeks from the date of the order and on failure the Defendant-Municipal Corporation has directed to evict the Plaintiffs. The Respondent-Municipal Corporation evicted the Appellants/Plaintiffs from the suit premises and, therefore, the Plaintiffs took out Notice of Motion No. 3809 of 2017. The learned Judge gave them opportunity of audience and also leading of evidence, however, both the parties did not lead any evidence to advance their submissions. The learned Judge after evaluating the circumstances

placed before it, again dismissed the Notice of Motion by order dated 07.11.2017. In this Appeal, the said order is under challenge. The trial Court has perused the photographs filed by Mr.Nitin Jadhav, the officer of the Municipal Corporation, who has made a party respondent in Notice of Motion No. 3809 of 2017. The trial Court has observed that only the premises with Plaintiff nos. 2,3,5 and 6 have been taken possession from persons other than those Plaintiffs, as the Plaintiffs were not occupying the said premises.

4. Learned counsel for the Municipal Corporation has made a statement that till today, Plaintiff Nos. 1, 4,7,8,9 and 10 were not evicted from their respective premises. She has submitted that the premises which were in possession of Plaintiff Nos. 2,3,5 and 6 are now sealed by the Municipal Corporation. She has further submitted that the Municipal Corporation took possession of only those premises where the respective Plaintiffs were not occupying the said premises.

5. Under such circumstances, I do not find any illegality in the order dated 07.11.2017 passed by the learned Judge, City Civil Court, Mumbai. Appeal from Order is disposed of with direction that the Municipal Corporation to keep respective premises under the seal till Appeal from Order (L) No. 30345 of 2017 is heard and decided.

6. With this, Appeal from Order is disposed of. Civil Application is also accordingly disposed of.

(MRIDULA BHATKAR, J.)