

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

APPEAL FROM ORDER NO.1347 OF 2013

Audrey Ludwig & Ors.

..Appellants

V/s.

Municipal Corporation of
Greater Mumbai & Ors.

..Respondents

Mr.Chinmaya Acharya I/by Mr.Omkar Kulkarni for the
Appellants.

Mrs.M.M. More for the Respondent-BMC.

CORAM : M. S. SONAK, J.

DATE : 20 JANUARY 2017.

P.C.

1. Mr.Chinmaya Acharya the learned counsel for the appellant points out that this Court by order dated 17 February 2014 had admitted this appeal and issued directions to the Civil Court to disposed of the suit itself expeditiously. Mr.Acharya however admits that after the institution of this appeal against the order dated 26-11-2013, in which the appellant had applied for the restraint against the MCGM from proceeding with the show cause notice dated 26-03-2012, the MCGM has withdrawn the said show cause notice on 17 January 2015.

Mr.Accharya however submits that the MCGM has issued another notice purporting to terminate the appellants lease and in respect of such termination notice, appellants have instituted suit bearing L.C. No.456 of 2016 which is pending adjudication.

2. Ms.M.M. More learned counsel for the MCGM also confirms that the show cause notice dated 26-03-2012 stands withdrawn and the MCGM has thereafter issued a termination notice which is the subject matter of the aforesaid suit.

3. In view of the aforesaid position, it is obvious that the present appeal from order has been rendered infructuous. The order impugned in this appeal was made upon the Notice of Motion taken out by the appellants seeking to restrain the MCGM from taking any steps in furtherance of the show cause notice dated 26-03-2012. Since, the show cause notice dated 26-03-2012 has itself been withdrawn, there is no question of appellants insisting upon any further relief. At least *prima-facie*, it also appears that the suit itself has become infructuous. However, that is a matter for the Trial Court to decide.

4. This appeal is therefore disposed of as infructuous.
Interim order, if any, stands vacated.

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

(M. S. SONAK, J.)