

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

**APPEAL FROM ORDER (ST.) NO. 34004 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 34005 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 34004 OF 2017**

Shri. Sudhakar Ramayya Shetty & Anr. ...Appellants

Versus

The Brihan Mumbai Municipal Corporation
for Greater Bombay ...Respondent

.....

Ms.Pratibha D. Nachankar for the Appellants.
Mrs. M.R. Bhoir for the Respondent/ Municipal Corporation.

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CORAM: MRS.MRIDULA BHATKAR, J.

DATE : DECEMBER 06, 2017

P.C.:

1. Upon urgent mentioning, taken on Production Board.
2. This Appeal from Order is directed against the order dated 27th November, 2017 passed by the learned Ad-hoc Judge, City Civil Court & Asstt. Sessions Judge, Dindoshi, Mumbai thereby refusing the ad-interim injunction in Draft Notice of Motion in L.C.Suit No. 3251 of 2017.

3. Learned counsel for the appellants submits that the suit structure i.e. Pan Bidi Shop is in existence since 1982. She has produced the licence of 1992 before the trial Court, however, it is not considered by the learned Judge of the trial Court while refusing the ad-interim relief.

4. At the outset, it appears that the Designated Officer of the Municipal Corporation has not passed any order. After considering the case of the appellants, necessary order is required to be passed by the authority of Municipal Corporation pursuant to the notice issued under Section 314 of the Mumbai Municipal Corporation Act. The suit structure is protected till the necessary order is passed by the competent authority. The respondent/ Municipal Corporation not to take any coercive action.

5. Learned counsel for both the parties submit that the Notice of Motion is fixed on 21st February, 2018 before the trial Court.

6. The trial Court shall try to dispose of the said Notice of Motion finally on 21st February, 2018. The Municipal Corporation to file reply

on or before 21st February, 2018 and copy of the said reply is to be served on the appellants.

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

(MRIDULA BHATKAR, J.)