

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

**APPEAL FROM ORDER NO.151 OF 2017
WITH
CIVIL APPLICATION NO.198 OF 2017
IN
APPEAL FROM ORDER NO.151 OF 2017**

M/s.Sigdi Restaurant
Through Proprietor
Mr.Aziz Jumma Khan

...Appellant/Applicant

Versus

Mumbai Municipal Corporation
for Greater Mumbai

...Respondent

Mr.P. J. Thorat i/by Mr.R.M. Haridas for the Appellant/Applicant.

Mrs.Madhuri M. More for the Respondent-MCGM.

CORAM : M. S. SONAK, J.

DATE : 24 MARCH 2017

P.C.

1. Heard Mr.Thorat, learned counsel for the appellant and Ms.More, learned counsel for the respondent-Municipal Corporation of Greater Mumbai (MCGM).

2. With the consent and at the request of the learned counsel for the parties, the appeal is disposed of finally at admission stage itself. The appeal is against the order dated 23-12-2016 by

which, ad-interim relief was declined to the appellant in order to restraint the respondent from executing its notice under Section 154A of the Mumbai Municipal Corporation Act, 1888 (MMC Act).

3. This Court, has granted ad-interim protection to the appellant, by order dated 27 December 2016. As per the impugned order, the matter was posted by the learned Trial Judge on 24-01-2017 for reply from MCGM. Till date, it appears, that MCGM has not filed its reply. Ms.More states that the MCGM will now file its reply within a period of two weeks from today.

4. In the aforesaid circumstances, it will be appropriate to dispose of this appeal by directing the learned Trial Judge to proceed with the hearing and dispose of the Notice of Motion itself in accordance with law and on its own merits as expeditiously as possible and in any case within a period of six weeks from today.

5. In disposing of the Notice of Motion, the learned Trial Judge at the stage of the grant of ad-interim protection to the appellant need not be influenced by any of the observations in the impugned order or for that matter the order made on 24-07-2016. The Notice of Motion is to be disposed of in accordance with law

and on its own merits. The ad-interim protection granted by this Court on 27 December 2016 is continued until the disposal of the Notice of Motion, by the learned Trial Judge. The appellant is also directed to maintain status-quo in respect of the suit premises.

6. The appeal is disposed of in the aforesaid terms. In view of the disposal of the appeal, the Civil Application does not survive and the same is also disposed of.

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

(M. S. SONAK, J.)