

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO. 35800 OF 2016
WITH
CIVIL APPLICATION (STAMP) NO. 35801 OF 2016
IN
APPEAL FROM ORDER (STAMP) NO. 35800 OF 2016

Mr. Harcharansingh Ghura	..	Appellant
vs.		
Mumbai Municipal Corporation for Greater Mumbai	..	Respondent

WITH
APPEAL FROM ORDER (STAMP) NO. 35804 OF 2016
WITH
CIVIL APPLICATION (STAMP) NO. 35805 OF 2016
IN
APPEAL FROM ORDER (STAMP) NO. 35804 OF 2016

Mr. Narayan Chandiram Jadhvani	..	Appellant
vs.		
Mumbai Municipal Corporation for Greater Mumbai	..	Respondent

WITH
APPEAL FROM ORDER (STAMP) NO. 35806 OF 2016
WITH
CIVIL APPLICATION (STAMP) NO. 35807 OF 2016
IN
APPEAL FROM ORDER (STAMP) NO. 35806 OF 2016

Shri Chandrabhan Sobraj Rohra & Anr.	..	Appellants
vs.		
Mumbai Municipal Corporation for Greater Mumbai	..	Respondent

AND
APPEAL FROM ORDER (STAMP) NO. 35870 OF 2016

Mr. Manjit Singh Jodh Singh Abrol	..	Appellant
vs.		
Municipal Corporation of Greater Mumbai	..	Respondent

WITH
APPEAL FROM ORDER (STAMP) NO. 35802 OF 2016
WITH
CIVIL APPLICATION (STAMP) NO. 35803 OF 2016
IN
APPEAL FROM ORDER (STAMP) NO. 35802 OF 2016

Mr. Harcharansingh Ghura & Anr.	..	Appellants
vs.		
Mumbai Municipal Corporation for Greater Mumbai	..	Respondent

WITH
APPEAL FROM ORDER (STAMP) NO. 35872 OF 2016
WITH
CIVIL APPLICATION (STAMP) NO. 35873 OF 2016
IN
APPEAL FROM ORDER (STAMP) NO. 35872 OF 2016

Mr. Srichand Naraindas Kalra, through C.A. Mr. O. S. Kalra	..	Appellant
vs.		
Municipal Corporation of Greater Mumbai	..	Respondent

WITH
APPEAL FROM ORDER (STAMP) NO. 35874 OF 2016
WITH
CIVIL APPLICATION (STAMP) NO. 35875 OF 2016
IN
APPEAL FROM ORDER (STAMP) NO. 35874 OF 2016

Mr. Manjit Singh Jodh Singh Abrol	..	Appellant
vs.		
Mumbai Municipal Corporation of Greater Mumbai	..	Respondent

Mr. Sharad Bhosle for Appellants.
Ms Sonal with Mr. F. Frederick i/b. F F & Associates for Caveator.

CORAM : M. S. SONAK, J.
DATE: 10 JANUARY 2017

P.C :

- 1] Heard learned counsel for the parties.
- 2] The appellants in these appeals are the original plaintiffs in the suits instituted before the City Civil Court. In the suits, the challenge, *inter alia* is to notices dated 4 August 2016 and 29 November 2016 issued by the Municipal Corporation of Greater Mumbai (MCGM) under Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966 (MRTP Act). The interim relief applied for, is restraint upon execution of such notices pending disposal of the suits.
- 3] By the impugned orders dated 22 December, 2016 the City Civil Court (trial Court) has declined ad interim relief.
- 4] Upon perusal of the impugned orders, the reason for denying ad interim relief is really not discernible. Rather than this Court examining the matters, interests of justice would be met if directions are issued to the trial Court to dispose of the notices of motion taken out by the appellants on their own merits and in accordance with law as expeditiously as possible and in any case within a period of eight weeks from today.

5] However, at this stage, Ms Sonal, learned counsel for the caveator points out that Prithviraj Parasmal Kanungo, who claims ownership in respect of the suit property has filed chamber summons in each of the suits seeking impleadment as defendant. She submits that the said Prithviraj Parasmal Kanungo apart from claiming ownership to the suit property had also filed complaints in respect of the suit structures and it is in pursuance of such complaints that the notices impugned in the suits have been issued. She submits that the suits itself are not maintainable and in case, the chamber summons for impleadment are allowed, the said Prithviraj Parasmal Kanungo proposes to object to the maintainability of the suits by taking out suitable applications / notices of motion under Section 9A of the CPC.

6] Taking into consideration the circumstance that Prithviraj Parasmal Kanungo claims some interest in the suit property and further, it is on the basis of the complaints of said Prithviraj Parasmal Kanungo that the impugned notices came to be issued, again, interests of justice will be met if, the impleadment of said Prithviraj Parasmal Kanungo is granted in the suits, at this stage itself. In fact, this will save time and facilitate the hearing of the motions for interim relief instituted by the appellants in each of the suits. Accordingly, the chamber summons, viz. 2135, 2136, 2137,

2138, 2139, 2140 and 2141 all of 2016, in each of the suits are allowed to the extent the said Prithviraj Parasmal Kanungo seeks impleadment as defendant in each of the suits. This is obviously without prejudice to the rights and contentions of the appellants to raise their objections to the case proposed to be set up or which will be set up by the said Prithviraj Parasmal Kanungo in the suits.

7] Prithviraj Parasmal Kanungo as also MCGM to file their reply / objections to the maintainability of the suits, within a period of two weeks from today. The appellants shall file rejoinder / reply within a period of one week thereafter. In case, objection as contemplated by Section 9A of CPC is raised, learned trial Judge to take up and decide the issue of ad interim reliefs in terms of Section 9A(2) of the CPC. The issue of interim relief should be disposed of one way or the other within a period of eight weeks from today.

8] All parties to co-operate with the trial Judge in the matter of expeditious disposal of the issue of interim relief.

9] Until the issue of interim relief is decided, the parties to maintain *status quo* in respect of the suit structure.

10] It is made clear that this Court has not examined the merits and demerits of the matters and therefore, all contentions of all

parties are left open for adjudication by the trial Court.

11] All appeals along with civil applications therein are disposed of accordingly.

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

(M. S. SONAK, J.)

Chandka