

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER (ST) NO. 15303 OF 2016
WITH
CIVIL APPLICATION (ST) NO. 15555 OF 2016

Khimji Nathu & Ors		...Appellants
<i>Versus</i>		
Municipal Corporation of Greater Mumbai		...Respondents

Mr Piyush M Shah, for the Appellants.
Mrs Madhuri More, for the Respondent-MCGM.
Mr RM Pandey, for the Respondent No. 2.

CORAM: G.S. PATEL, J
DATED: 12th June 2017

PC:-

1. The contest is between the Plaintiffs who are the Appellants and Respondents Nos. 2 and 3 who are the owners or developers. Each side has approached their structural consultants and obtained structural audit reports. Mr Shah for the Appellants states that he had submitted a structural report with the necessary tests. Ms More for the MCGM states that she has written instructions dated 27th March 2017 that the Appellants have not submitted a report with the non-destructive tests. Mr Shah states that he will resubmit the report and if not done will submit a report with this test by 30th June 2017. For their part, Respondents Nos. 2 and 3 state that they

will also file their report. These two reports conflict. The MCGM will carry out its own tests. The reports of both sides will be placed before the MCGM's Technical Advisory Committee.

2. The TAC will render its findings on the reports on or before 4th August 2017.

3. Civil Application is kept pending.

4. Previous orders to continue.

5. The MCGM has already declared the building as dilapidated. The occupants/Appellants continue to use and occupy the building entirely at their own risk. The Appellants will submit an undertaking on affidavit to this effect within two weeks from today. The MCGM will not be held liable should that building or any part of it collapse, suffer damage or cause injury or harm to any third party, or third party's property. The Appellants alone will be liable for any resultant compensation or damages.

6. List the matter on 9th August 2017.

(G. S. PATEL, J.)