

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER st. NO.25134 OF 2017

Smt.Tulsi Kishan Naidu & anr. ... Appellants
Vs.
Municipal Corporation of Greater Mumbai & anr. ... Respondents

with

APPEAL FROM ORDER st. NO.25137 OF 2017

Shri Eknath Krishna Prabhu ... Appellant
Vs.
Municipal Corporation of Greater Mumbai & anr. ... Respondents

with

APPEAL FROM ORDER st. NO.25142 OF 2017

Shri Prakash Vishnu Belekar ... Appellant
Vs.
Municipal Corporation of Greater Mumbai & Ors. ... Respondents

with

APPEAL FROM ORDER st. NO.25616 OF 2017

Shri Sanjay Dhonduram Jadhav ... Appellant
Vs.
Municipal Corporation of Greater Mumbai & Ors. ... Respondents

Mr.J.N. Jayale for the Appellants in all AOs
Mr.Yogesh Dabke, AGP, for Respondent – State
Ms.Madhuri More for Corporation

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **NOVEMBER 3, 2017**

P.C.:

1. In all these 4 appeals against the order passed by the learned Judge of the City Civil Court refusing interim injunction in respect of vertical construction above the ground floor is challenged. It is submitted that Survey No.115 Hissa No.21, where the structures are standing, by notification dated 29.9.1977, the same is declared as slum. It is contended that photopasses were given to all these structures. The Corporation is not disputing that the ground floor structures are authorised but the dispute is in respect of further vertical construction on these ground floor structures. Moreover, whether the City Survey No.115 Hissa No.21 is declared as slum or not is also disputed by the Corporation. It is contended that the State Government i.e., the office of the Collector of Bombay, is a proper and competent authority to make statement in respect of the declaration of the land i.e., whether City Survey No.115 Hissa No.21 is declared a slum or not?

2. The learned Counsel for the appellant has pointed out one Circular dated 5.6.2002 of the State of Maharashtra wherein a policy decision is taken by the Government by which the State Government has allowed the height of the huts in the slum area upto 14'. The

height of the disputed suit structures is shown as 15' in the notices issued by the Corporation.

3. Considering these facts and circumstances, the State of Maharashtra, though is not a party in the suit, is found to be a necessary party to get a correct idea of the policy of the government. The learned Counsel for the plaintiff i.e., the appellant, submits that the plaintiff will take out necessary application to make the State of Maharashtra a party to the proceedings before the trial Court in two weeks. However, before this Court in these proceedings, the State of Maharashtra is added as a party respondent. The appellant is directed to carry out necessary amendments.

4. The learned Assistant Government Pleader, who is present in the Court, submits that he will have to take instructions in respect of the said policy decision and also about the declaration of the City Survey No.115 hissa No.21 of Hublal Baramdin Chawl, Jawahar Nagar, Khar (East), Mumbai.

5. S.O. to 10th November, 2017. Interim relief, if any, to continue till then.

(MRIDULA BHATKAR, J.)