

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO.1 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO.2 OF 2018

Dayanand Dattatray Some V/s. Municipal Corporation of Greater Mumbai and Anr.	 Appellant-Applicant Respondents
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ALONG WITH
APPEAL FROM ORDER (STAMP) NO.3 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO.4 OF 2018

Vidya Sagar Mariba Waghmare V/s. Municipal Corporation of Greater Mumbai and Anr.	 Appellant-Applicant Respondents
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ALONG WITH
APPEAL FROM ORDER (STAMP) NO.5 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO.6 OF 2018

Ramchandra Gyanoba Lone V/s. Municipal Corporation of Greater Mumbai and Anr.	 Appellant-Applicant Respondents
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ALONG WITH
APPEAL FROM ORDER (STAMP) NO.7 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO.8 OF 2018

Savita Laxman Adkute V/s. Municipal Corporation of Greater Mumbai and Anr.	 Appellant-Applicant Respondents
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ALONG WITH

APPEAL FROM ORDER (STAMP) NO.9 OF 2018

WITH

CIVIL APPLICATION (STAMP) NO.10 OF 2018

Moglaji Vithal Sawale Appellant-Applicant
V/s.
Municipal Corporation of
Greater Mumbai and Anr. Respondents

ALONG WITH

APPEAL FROM ORDER (STAMP) NO.11 OF 2018

WITH

CIVIL APPLICATION (STAMP) NO.12 OF 2018

Dilip Dattatray Some Appellant-Applicant
V/s.
Municipal Corporation of
Greater Mumbai and Anr. Respondents

ALONG WITH

APPEAL FROM ORDER (STAMP) NO.13 OF 2018

WITH

CIVIL APPLICATION (STAMP) NO.14 OF 2018

Dashrath Sambhaji Kamble Appellant-Applicant
V/s.
Municipal Corporation of
Greater Mumbai and Anr. Respondents

Mr. Kameshwar R. Tiwari for the Appellants-Applicants.

Mrs. Madhuri More for the Respondent-MCGM.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 21ST AUGUST, 2018.

P.C. :

1. Heard Mr. Tiwari, learned counsel for the Appellants-Applicants,
and Mrs. More, learned counsel for the Respondent-Municipal
Corporation.

2. This Appeal is preferred against the refusal of the ad-interim relief by the Court of City Civil Court, Mumbai, in Draft Notice of Motion in L.C. Suit No.3759 of 2017.

3. The grievance of the Appellants is that, they are in possession of the suit premises since prior to the year 1995 and without issuing any personal notices to them, the Respondent-Municipal Corporation has initiated action for demolition of the suit structures and, therefore, Respondent-Municipal Corporation be restrained from demolishing the suit structures. However, learned counsel for the Respondent-Municipal Corporation has pointed out that, the suit structures have already been demolished, after following the due process of law. The photographs to that effect dated 11th December 2017 and 12th December 2017 are not only produced before this Court, but were also produced before the Trial Court, which clearly go to show that the suit structures are not in existence and they are already duly demolished.

4. In view thereof, the Trial Court was perfectly justified in refusing the relief of ad-interim injunction to the Appellants and no interference is warranted in the said order. These Appeals, therefore, stand dismissed.

5. At this stage, learned counsel for the Appellants requests for

appointment of the 'Court Commissioner' to prove that the suit structures are still in existence. Learned counsel for the Appellants also produces the photographs to show that the suit structures are in existence; however, the photographs are not having the date, on which day they were taken, and the Appellants, if at all want to appoint the 'Court Commissioner', the proper mode for the Appellants is to approach the Trial Court.

6. In view of the dismissal of the Appeals, the Civil Applications pending therein do not survive and the same are disposed off as infructuous.

[DR. SHALINI PHANSALKAR-JOSHI, J.]