

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

APPEAL FROM ORDER NO.315 OF 2011

Mr. Ajay Lalmani Tripathi ...Appellant

Versus

Municipal Corporation of Greater
Mumbai

...Respondent

.....

Ms Nazia S.A. Shaikh i/b. Mr. P.J. Thorat for the Appellant.

Mrs. Madhuri More for the Respondent-MCGM.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 13th APRIL, 2018.

P.C.:-

The Appellant herein, who was Plaintiff in L.C. Suit No.668 of 2009 has challenged the order dated 14th December, 2010 whereby the learned Judge, City Civil Court Borivali Division, Dindoshi dismissed his notice of motion. By order dated 3rd May, 2011 in C.A. No.454 of 2011 this Court had granted interim relief in terms of prayer clause (a), which reads thus :-

“(a) That pending the hearing and final dismissal of the present Appeal from Order, by the Order of Injunction of this Hon'ble Court, the Opponents, their agents, their servant and/or persons claiming through them be restrained from demolishing or removing any part and/or pulling out the suit premises in any manner, pursuant to the Notice issued U/s. 351 of 4/08/2008 being No.ACPN/BFIII/351/4552/08-09 and Order passed in pursuant thereof by the Assistant

Municipal Commissioner, dated 23/03/2009.”

2. Said interim relief was subject to condition that the Appellant herein could not create any third party right in respect of the suit structure and will not carry out any additions or alternations to the suit structure.

3. Mrs. Madhuri More, the learned counsel for the Respondent-Corporation submits that the evidence in L.C. Suit No.668 of 2009 has already been recorded and the suit is pending for final hearing on 19.6.2018.

4. Considering the above facts, without going into the merits of the matter, the interim relief granted by this Court on 3rd May, 2011 in Civil Application No.454 of 2011 is ordered to be continued till the disposal of the suit.

5. The Appeal stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)