

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

**APPEAL FROM ORDER NO. 409 OF 2018
WITH
CIVIL APPLICATION NO. 545 OF 2018
IN
APPEAL FROM ORDER NO. 409 OF 2018**

Mr. Aziz Jumma Khan

.. Appellant

Vs.

Municipal Corporation for
Greater Mumbai & Ors.

.. Respondents

Mr. Pradeep J. Thorat, Advocate for appellant.

Ms. Oorja Dhond, Advocate for respondent No.1-BMC.

CORAM : A.S. CHANDURKAR, J.

DATE : 21ST NOVEMBER 2018

P.C.

1 This appeal has been filed by the original plaintiff being aggrieved by the order dated 30th January 2018 passed by the trial Court refusing to grant any ad-interim relief in the notice of motion filed by them.

2 Perusal of the impugned order indicates that one of the factors that has weighed with the trial Court is the absence of any reply by the Municipal Corporation for controverting averments made in the application filed before the trial Court.

3 This Court, while issuing notice on 12th February 2018, has granted ad-interim protection which has been continued thereafter.

4 Considering the fact that the notice of motion is pending before the trial Court, the same can be directed to be decided within a stipulated time after taking into consideration the reply to be so filed on behalf of the Municipal Corporation.

5 Accordingly the following order is passed :-

O R D E R

(i) The trial Court is directed to decide the notice of motion in L.C. Suit No. 236 of 2018 by the end of March 2019.

In the meanwhile, it would be open for the Municipal Corporation to place its reply on record.

(ii) The interim relief granted by this Court shall continue to operate during pendency of the said notice of motion.

It is, however, clarified that the trial Court shall decide the said notice of motion being uninfluenced by grant of said ad-interim relief or its continuation.

(iii) The rights and contentions of all parties are kept open for being urged before the trial Court.

(iv) Pending civil applications are also disposed of accordingly.

(A.S. CHANDURKAR, J.)