

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER No. 313 OF 2015
WITH
CIVIL APPLICATION No. 398 OF 2015 in A.O. No. 313 OF 2015
WITH
CIVIL APPLICATION No. 535 OF 2015 in A.O. No. 313 OF 2015

Krishna s/o. Ramji Mokal (Deleted since
deceased) through LRs.

... Appellants/Applicants

Vs.

Brihanmumbai Municipal Corporation
& Ors.

... Respondents

a/w.

APPEAL FROM ORDER No. 314 OF 2015
WITH
CIVIL APPLICATION No. 399 OF 2015 in A.O. No. 314 OF 2015
WITH
CIVIL APPLICATION No. 914 OF 2015 in A.O. No. 314 OF 2015

Ramesh Rambacchan Prajapati
Vs.

... Appellant/Applicant

Brihanmumbai Municipal Corporation
& Anr.

... Respondents

Mr. Pradeep Thorat i/b. B.P. Joshi, Advocate for the
appellants/applicants.

Mr. Vinod Mahadik, Advocate for the respondent/corporation.

Mr. Drupad Patil, Advocate for respondent no. 2.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 23rd February, 2018.

P.C.:

Both the Appeals are heard together and disposed of by a
common order, as similar issue is involved in these Appeals.

2. The learned counsel counsel for the appellants submitted that in Appeal from Order No. 313 of 2015, Notice of Motion No. 1091 of 2008 in L.C. Suit No. 1054 of 2008 was dismissed and order of ad-interim injunction dated 6th May, 2008 is vacated. In Appeal from Order No. 314 of 2015, Notice of Motion No. 1105 of 2008 in L.C. Suit No. 1078 of 2008 was dismissed and order of ad-interim injunction dated 7th May, 2008 is vacated. The learned counsel submitted that against the said orders, these Appeals are filed. However, in between, the suit structures were demolished partly. The appellants have taken out Civil Application No. 535 of 2015 and Civil Application No. 914 of 2015 for directing the Corporation to reconstruct the same. The learned counsel further submitted that the Corporation has filed written statement before the trial Court, issues are framed and trial is commenced. The learned counsel submitted that the order of status quo passed on 19th March, 2015 to continue till the conclusion of the trial.

3. The learned counsel for the respondent no.1/Corporation and learned counsel for respondent No. 2/Cooperative Housing Society produces the photographs and submit that this fact of demolition is recorded in the order of this Court dated 7th May, 2012.

4. After perusal of the photographs, it appears that the suit structure is demolished and by the order dated 7th May, 2012 the debris were removed.

5. In view of the submissions of the learned counsel, I am of the view that as these Appeals from Order are pending before this Court from 2015 and considering the subsequent developments, the suits are expedited and the trial Court to endeavour to conclude the trial within six months from today.

6. The order of status quo cannot be granted because the appellants/plaintiffs have also sought mandatory injunction against the respondents in the suits and suits are proceeded.

7. Both the Appeals from Order are disposed of.

8. Civil Applications are also accordingly disposed of.

(MRIDULA BHATKAR, J.)