

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

APPEAL FROM ORDER NO.366 OF 2015
WITH
CIVIL APPLICATION (CAA) NO.474 OF 2015
IN
L.C. SUIT NO.346 OF 2015

Mohammed Salim Hussein

-vs-

The Municipal Corporation of Greater Mumbai

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Ms Bhagyashree Gawas, Advocate i/b Shri C. K. Tripathi,
Advocate for appellant.

Ms Oorja Dhond, Advocate for respondent/BMC.

CORAM : A. S CHANDURKAR, J.

DATE : NOVEMBER 19, 2018

In this appeal the original plaintiff has challenged the order dated 26/02/2015 refusing to grant ad interim relief in favour of the appellant-plaintiff. In the Notice of Motion filed before the trial Court it was prayed that the respondent-defendant be restrained from demolishing the structure of the appellant.

On hearing the learned counsel for the appellant it can be seen that the trial Court has refused to grant ad interim relief principally on the ground that the plaintiff failed to rectify various breaches as pointed out. That order has been passed on 26/02/2015. In the aforesaid facts and as there are no interim orders passed in this appeal, the Notice of Motion which is pending before the trial Court can be directed to be adjudicated on merits without being influenced by the observations made in the impugned order.

Accordingly this appeal is disposed of by passing the

following order :

The trial Court shall decide the Notice of Motion taken out by the plaintiff seeking injunction so as to restrain the defendant from demolishing the suit structure on its own merits by the end of March 2019. The said Notice of Motion shall be decided on its own merits without being influenced by the observations made in the impugned order. The points raised in this appeal are kept open.

The Appeal from Order is accordingly disposed of.

Pending Civil Application is also disposed of.

JUDGE