

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.361 OF 2015
WITH
CIVIL APPLICATION NO.466 OF 2015
IN
APPEAL FROM ORDER NO.361 OF 2015**

Vijay Kumar Gupta ...Appellant
Versus
The Municipal Corporation of
Greater Mumbai and Anr. ...Respondents

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Ms Reema Mishra for the Appellant/Applicant.
Mrs. Madhuri More for the Respondent No.1-BMC

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED: 3rd APRIL, 2018.**

P.C.:-

The Appellant herein has impugned the order dated 18th February, 2015 whereby the learned Judge, City Civil Court, Mumbai dismissed the Notice of Motion No.4433 of 2014 in Suit No.3215 of 2014.

2. The Appellant, who was the Plaintiff in the suit, by way of interim relief had sought to restrain the Respondent- Municipal Corporation from demolishing the structure pursuant to the notice dated 9.9.2014 and final order dated 21.11.2014 under Section 351 of the Mumbai Municipal Corporation Act, 1988. It is not in dispute that the ad-interim relief was operating in favour of the Appellant till the

disposal of the notice of motion on 18.2.2015. The records also reveal that subsequent to the dismissal of the notice of motion this Court has also protected the Appellant-Plaintiff by way of ad-interim relief. It is stated that trial has commenced. Considering this fact and also considering that the ad-interim relief has been operating in favour of the Plaintiff for last three years, in my considered view this appeal can be disposed of by directing the Trial Court to dispose of the suit as expeditiously as possible and as far as possible within a period of one year from the date on which this order is uploaded.

3. The Appeal from order stands disposed of in above terms.
4. The interim relief granted by this Court to continue till the final disposal of the suit. It is made clear that the this Court has not gone into the merits of the matter and the learned Judge shall decide the suit on its own merits and in accordance with law. All the points and contentions of the respective parties are expressly kept open.
5. In view of disposal of the Appeal from order, the Civil Application No.466 of 2015 does not survive and hence, stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)