

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

**APPEAL FROM ORDER NO.206 OF 2018
WITH
CIVIL APPLICATION NO.265 OF 2018
IN
APPEAL FROM ORDER NO.206 OF 2018**

Sachin Popat Kamble & Ors. ...Appellants/Applicants
Versus
Municipal Corporation of Greater
Mumbai & Ors. ...Respondents

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Mr. J.S. Kini i/b. Ms Sapna S. Krishnappa for the Appellants/Applicants.
Mrs. Madhuri More for Respondent No.1-BMC.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 3rd MAY, 2018.

P.C.:-

The Appellants herein had challenged the order dated 12th March, 2018 whereby the Trial Court has refused to grant ad-interim relief in the notice of motion filed in L.C. Suit No.685 of 2018.

2. The Appellants had filed the suit as well as the notice of motion for injunction in view of issuance of notice under Section 354 of the Mumbai Municipal Corporation Act, 1888. On 14th March, 2018, the Appellants had made a statement before this Court that the premises are in habitable condition and that they would continue to

reside in the same at their own risk and cost. In view of the said statement, by order dated 14th March, 2018 parties were directed to maintain status-quo in respect of the suit premises.

3. On 16th April, 2018, the learned counsel for the Appellants once again submitted that the Appellants would continue to reside in the said premises at their own risk. In the light of the said statement, ad-interim relief was continued.

4. The learned counsel for the Respondent-Corporation had placed on record TAC report as well as the photographs of the building, which prima facie indicates that the building requires extensive repairs. In view of the above and also considering that the monsoon is just round the corner, this Court had expressed that continuing to reside in the said building could pose danger to the life and property of the Appellants.

4. Today, the learned counsel for the Appellants, having taken instructions from the Appellants, submitted that since the TAC report prima facie indicates that building requires extensive repairs and in view of possibility of onset of the monsoon, continuing to reside in the

said building may pose danger to the life and property of the Appellants. Hence, the Appellants have conceded to vacate the premises on or before 30th May, 2018. He submits that the Appellants intend to file an application under Section 9 of the Arbitration and Reconciliation Act, 1996. The learned counsel for the Appellants further submits that the Appellants will be vacating the premises without prejudice to their rights and contentions, by reserving their rights to file any other appropriate proceedings to enforce or defend their rights. Subject to above, he seeks leave to withdraw the appeal.

5. Statement is accepted. Leave with liberty is granted.

6. The appeal from order is dismissed as withdrawn. No coercive action be taken against the Appellant in respect of the suit premises till 30.5.2018.

7. In view of withdrawal of the appeal from order, the civil application does not survive and hence, stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)