

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO.540 OF 2015
WITH
CIVIL APPLICATION NO. 680 OF 2015
IN
APPEAL FROM ORDER NO.540 OF 2015**

Mr.Mohammed Aslam Haji Ismail Nagori ...Appellant

Versus

The Municipal Corporation of Greater Mumbai ...Respondent

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Mr.S.P.Srivastava for the Appellant.

Mrs.Madhuri More for the Respondent/ Municipal Corporation.

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CORAM: MRS.MRIDULA BHATKAR, J.
DATE : JANUARY 12, 2018

P.C.:

1. This Appeal from Order is directed against the order dated 24th February, 2015 passed by the learned Judge, City Civil Court, Dindoshi, Mumbai in L.C. Suit No. 464 of 2015 thereby refusing the ad-interim relief. Notice of Motion is still pending in the trial Court.

2. The appellant/plaintiff has filed the Suit against the Municipal Corporation for injunction that the respondent/Municipal Corporation

be restrained from demolishing the suit premises. In the impugned order, the learned Judge of the trial Court has mentioned that the Advocate for defendant/ MMC subsequently produced the photographs and demolition report mentioning that the structure in this suit is already demolished, but the said fact is suppressed by the plaintiff.

3. The learned Counsel for the appellant/plaintiff submits that the learned Judge of the trial Court has given wrong finding that the plaintiff has suppressed the fact. In para 13 of the Suit, the appellant/plaintiff has mentioned that the Municipal Corporation has demolished the first floor on 12th January, 2015 and only ground floor has remained.

4. Under such circumstances, I do not find any reason to interfere with the order dated 24th February, 2015 passed by the learned Judge of the trial Court. Hence, I maintain the order passed by the trial Court. The trial Court to hear and to decide the Notice of Motion.

5. Hence, the Appeal from Order is dismissed.

6. In view of dismissal of Appeal from Order, Civil Application does not survive, hence the same is also disposed of accordingly.

7. The learned Counsel for the Municipal Corporation submits that along with this Appeal from Order, Appeals from Order Nos. 541 of 2015 and 539 of 2015 are filed against the same order, which are pending. The learned Counsel for the appellant submits that he is appearing in these Appeals and, therefore, similar order can be passed.

8. Registry to produce the above-mentioned Appeals and similar order is to be passed.

(MRIDULA BHATKAR, J.)