

pmw

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6428 OF 1997**

Shri Manoj Kantilal Bharatiya	... Petitioner
Vs.	
Pimpri Chinchwad Municipal Corporation and Anr.	... Respondents

None for the Petitioner.
Mr. G.H. Keluskar for the Respondent Nos.1 and 2.

CORAM : A.S. OKA, J.

DATE : 21st MAY, 2018

PC.

1 The petition is listed before the Special Bench constituted to hear the old writ petitions in Vacation. There is an order dated 11th January 2005 passed by the Apex Court directing this Court to hear the Petition expeditiously. Heard the learned counsel for the respondents.

2 This Writ Petition under Article 226 of the Constitution of India arises out of the interlocutory order in a suit for declaration filed by the petitioner against the respondents. An application for temporary injunction was taken out which was partly allowed by the Civil Court. Being aggrieved by the said order, both the petitioner and the

respondents preferred separate Appeals under clause (r) of Rule 1 of Order XLIII of the Code of Civil Procedure, 1908. By the Judgment and Order dated 24th July 1997, the Appeals preferred by both the petitioner and respondents were allowed and limited temporary injunction was granted. It appears that against the interim order passed in this Writ Petition, Civil Appeal No.2134 of 1999 was preferred by the respondents which was disposed of by an order dated 11th January 2005.

3 After the said order was passed by the Apex Court in the year 2005, the respondents never moved for fixing the date on the basis of the order of the Apex Court.

4 The effect of the impugned order of the Appellate Court (District Court) is that there was a limited temporary injunction operating till the disposal of the suit of the year 1994. It is unlikely that the suit of the year 1994 is pending. Therefore, in all probability, the Petition may not survive. Considering the nature of the impugned order and considering the order of the Apex Court, it is not necessary to keep the Petition pending and the same is disposed of by passing the following order :-

ORDER

- (i) If Regular Civil Suit No.190 of 1994 is pending as of today, the interim order which is operative in this Petition will continue to operate till the disposal of the suit;
- (ii) Considering the fact that the suit is of the year 1994, the concerned Court shall endeavour to dispose of the suit as expeditiously as possible and in any event within a period of six months from the date on which writ of this order is received by the concerned Court;
- (iii) All contentions on merits are kept open;
- (iv) It is obvious that if R.C.S. No.190 of 1994 is already disposed of, this Petition will not survive and will stand disposed of accordingly;
- (v) Rule is disposed of on above terms.

(JUDGE)