

Sarnobat

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

**APPEAL FROM ORDER (STAMP) NO. 16398 OF 2018
ALONGWITH
CIVIL APPLICATION (STAMP) NO. 16401 OF 2018**

Miten Kumar Kamlesh Savla & Ors. ... Appellants.
Vs.
Municipal Corporation of Greater Mumbai
& Ors. ... Respondents.

Mr. Anil R. Mishra, for the Appellants.
Mrs. Madhuri More, for the Respondents.

CORAM : V. M. DESHPANDE, J.

DATE : 17th JULY, 2018.

P. C. :

1. Heard the learned counsel for the appellants and the learned counsel for the respondent/Corporation. The present appeal is directed against the order dated 1st June, 2018 in L.C. Suit No. 4768 of 2018. By the impugned order pending Notice of Motion, the Court below has refused to grant ad-interim relief in favour of the appellants.

2. The appellant who are the original plaintiffs are the tenants of their respective shops and residential premises situated at Krishna Bhuvan, Parsi Panchayat Road, Andheri (East). The landlord has already entered into development agreement for development of the suit building. The Corporation has already issued notice under Section

354 of MMC Act on 16th March, 2017 for demolition of suit building since the said is in dilapidated condition. The impugned order shows that the Consulting Structural Engineer Sura & Associates gave letter dated 26th December, 2017. The said letter was produced on record of Court below by the plaintiffs themselves and which shows that the said Consulting Engineer has stated that the existing building is in dilapidated condition. If that be so it is clear that the building in question is in dilapidated condition. Though it is the submission before the Court below that certain repairs were carried out by the plaintiffs. However, no certificate to that effect was produced on record. The learned Judge of the Court below therefore, on the available material found the building in question in dilapidated and ruinous condition. If that be so I see no reasons to interfere with the impugned order, especially when it is not the submission of the learned counsel for the appellants that any available evidence was not considered by the Court below properly while rejecting the ad-interim relief. In that view of the matter, the appeal fails and it is dismissed. Needless to mention that the interim order granted on 15th June, 2018 by this Court (Coram : Dr. Shalini Phansalkar-Joshi, J.) stands vacated.

[V. M. DESHPANDE,J.]