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

**APPEAL FROM ORDER (ST) NO.16250 OF 2018
WITH
CIVIL APPLICATION (ST) 16251 OF 2018
IN
APPEAL FROM ORDER (ST) NO.16250 OF 2018
WITH
CIVIL APPLICATION (ST) NO.18523 OF 2018
IN
APPEAL FROM ORDER (ST) NO.16250 OF 2018**

M/s Shah & Jain Enterprises
Through it's Partner Shri Babulal M. Shah ... Applicants.
V/s.
Municipal Corporation of
Greater Mumbai and anr ... Respondents

Mr. Indupraksh Tripathi i/by C.K. Tripathi, for the
appellant.
Mrs. Madhuri More, for respondent corporation.
Mrs. Bhagyashri.Gawas, for interfenor in Civil
Application (ST) No.18253 of 2018

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 3rd SEPTEMBER, 2018.

P.C. :

- 1] Heard learned counsel for appellant and respondents.
- 2] It is submitted by learned counsel for appellant that the
respondent Municipal Corporation has issued notice on 9.5.2015,
under Section 354 of the Mumbai Municipal Corporation Act, for

demolition on the ground that the building has become dilapidated and dangerous for rehabilitation. This notice was challenged by the appellant in the trial Court.

3] The trial Court has vide its impugned order dated 6.6.2018, refused to grant ad-interim relief, therefore, the appellant has approached this Court.

4] As per order passed by this Court, on 28th June, 2018, an independent structural audit was directed to be conducted by the Structural Auditor from the panel of Government. Accordingly structural audit is conducted and the report is filed on record stating that the condition of the building is in repairable condition.

5] In view thereof, learned counsel for appellant submits that this appeal and the suit no more survive. Learned counsel for respondent submits that the appellant be directed to produce the copy of this report before Competent Authority- Assistant Engineer B and F Ward, of the corporation and he will take appropriate decision.

6] In view thereof, this Appeal from Order and the suit no more survive. Accordingly the Suit and this Appeal, both stand disposed off with direction to the appellant to produce copy of this structural audit report before the competent authority of Municipal Corporation, within four weeks from today.

7] Till the Competent Authority takes appropriate decision in the light of this report, ad interim relief granted earlier to continue. Needless to state that the respondent corporation is not to take any coercive action on the basis of the notice impugned in the suit.

8] The undertaking which is filed by appellant in this Court shall continue till appropriate decision is taken by the competent authority.

9] In view of dismissal of Appeal from Order, pending Civil Applications are disposed off accordingly.

[DR.SHALINI PHANSALKAR-JOSHI, J.]