

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

CIVIL APPLICATION St No. 18723 of 2018
WITH
CIVIL APPLICATION St No. 18724 of 2018
IN
APPEAL FROM ORDER St No. 18722 of 2018

Mumbai Building Repair
& Reconstruction Board & Anr .Applicants/Appellants.
Vs
Mr Kamruzzama Mohammad Zama
Shaikh ..Respondent.

Ms. Sharmila Deshmukh I/by V.P. Sawant for the
Applicants/Appellants.
Mr Suraj Kudalekar for the Respondent.

CORAM : M.S. SONAK, J.
DATE : 13th August, 2018.

P.C.:-

1. Heard learned counsel for the parties.
2. For the reasons stated in the application for condonation of delay, the delay of 165 days in instituting the appeal is hereby condoned and the civil application is disposed of.
3. The main appeal from order was instituted by the appellants to question the order dated 11th December, 2017, by which, the learned Trial Judge had directed both parties to maintain status-quo until disposal of the Notice of Motion.

4. Ms. Deshmukh, the learned Counsel for the appellants, submits that after this order was made, since, it was noticed that the suit structure is in a dilapidated condition, the appellants without prejudice to their rights and contentions in the suit have offered the respondent an alternate transit accommodation at some different place in the same locality. She submits that such alternate transit accommodation, has, in fact, been accepted by the respondent, no doubt, without prejudice to his rights and contentions in the suit. Ms. Deshmukh submits that on account of status-quo order, however, there is some difficulty in demolishing the suit structure which is in dilapidated state.

5. Since, there is no dispute that the respondent has accepted the alternate transit accommodation, the status-quo order made by the learned Trial Judge ought not to come in the way of the appellants in proceeding with the demolition of the suit structure. In fact, the learned Counsel for the respondent points out that the suit structure has already been demolished by the appellants.

6. Without going into the controversy as to whether the suit structure has already been demolished by the appellants despite the status-quo order, now that the respondent is already accommodated

in an alternate transit structure, no useful purpose would be served by continuing the status-quo order any further. Accordingly, the status-quo order is vacated.

7. It is made clear that this Court has not examined the merits of the contentions and therefore, it will be open for the learned Trial Court to examine such merits at the stage of the final disposal of the suit or at any stage of the situation so requires.

8. The appeal and the pending civil applications are disposed of in the aforesaid terms. There shall be no order as to costs.

(M.S. SONAK, J.)