

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO. 21542 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO. 21544 OF 2018

Mrs. Nirali Shah	..	Appellant
vs.		
The Municipal Corporation of Greater Bombay & Anr.	..	Respondents

AND
APPEAL FROM ORDER (STAMP) NO. 21546 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO. 21547 OF 2018

Dhaval Shah	..	Appellant
vs.		
The Municipal Corporation of Greater Bombay & Anr.	..	Respondents

Mr. D. S. Joshi for Appellants.
Ms Madhuri More for Respondents – MCGM.

CORAM : M. S. SONAK, J.
DATE: 14 AUGUST 2018

COMMON ORAL JUDGMENT :

1] Heard Mr. Joshi for the appellants and Ms More for the respondents.

2] Since, the issues involved in both the appeals as well as the orders impugned in both the appeals, are virtually identical, both the appeals are being disposed of by common judgment and order.

3] Both the appeals are admitted and taken up for final disposal at the request of and with the consent of the learned counsel for the parties.

4] Both these appeals have been instituted by the plaintiffs in the suits instituted by them before the Bombay City Civil Court (trial Court). In both these matters, ad interim reliefs were granted by the learned trial Judge on 7th March 2017. There is no serious dispute that these ad interim orders were being extended from time to time so as to enable the parties to complete their pleadings i.e. replies, rejoinders etc.

5] On 27th June 2018, however, the learned trial Judge made the following order :

“Advocate Ms. Poonam Parab for plaintiff present. Advocate Mrs. Pushpa Yadav for defendant / MMC present. Adjourned for reply to 27/9/18. Earlier order is discontinued.”

6] It is the aforesaid order, which is impugned in both these appeals.

7] The impugned orders, virtually vacated the earlier ad interim order without assigning any reasons whatsoever. The record, does not bear out that the appellants – plaintiffs were unnecessarily delaying the matter or were not ready to proceed with their notices

of motion. In such circumstances, the impugned orders in both these matters are required to be set aside and are hereby set aside.

8] The learned trial Judge is however directed to dispose of the pending notices of motion as expeditiously as possible on their own merits and in accordance with law after afford of due hearing to all the parties. Until, the notices of motion are disposed of, the ad interim protection granted earlier shall operate.

9] Both the appeals are disposed of in the aforesaid terms. There shall be no order as to costs.

10] In view of disposal of the appeals, civil applications do not survive and are disposed of.

11] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)