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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO.29717 OF 2017
ALONG WITH
CIVIL APPLICATION (STAMP) NO.29719 OF 2017

The Municipal Corporation of
Greater Bombay & Anr. .... Appellants-Applicants
V/s.
Jaspal A. Wig & Ors. .... Respondents

Mr. N.V. Walawalkar, Senior Counsel, a/w. Mrs. Madhuri More, for the Appellants-Applicants-MCGM

Mr. Dharam Sharma, i/by M/s. Dharam & Co., for Respondent Nos.1 to 7.

Mr. Rajesh M. Kashare for Respondent No.8.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 12TH JUNE, 2018.

P.C. :

1. Heard learned counsel for the respective parties.

2. This Appeal is preferred against the order dated 28th July 2017 passed by the City Civil Court, Mumbai, thereby granting ad-interim relief of restraining the Appellants-MCGM from proceeding with the impugned notice issued to the Respondents.

3. The submission of learned counsel for the Appellants-MCGM is

that, on the date when the ad-interim relief was granted, the matter was for filing of the rejoinder by Defendant No.3. Now the rejoinder is already filed. The Trial Court has not proceeded with the matter, as the Appellants have already preferred the Appeal before this Court and, therefore, the matter was subjudice. Now it is submitted that, as the rejoinder is already filed and the Notice of Motion is ripe for hearing, the Trial Court may be directed to proceed with the hearing thereof.

4. Learned counsel for Respondent Nos.1 to 7 and learned counsel for Respondent No.8 also submit that, they are ready to proceed with the hearing of the Notice of Motion pending before the Trial Court at the earliest date.

5. In view thereof, the Appeal is disposed off with a direction to the Trial Court to decide the Notice of Motion as expeditiously as possible.

6. Learned counsel for Respondent Nos.1 to 7 and learned counsel for Respondent No.8 make a statement that they will proceed with the hearing of the Notice of Motion on the date fixed before the Trial Court i.e. 3rd July 2018. Statement accepted.

7. All the parties are, therefore, directed to appear before the Trial Court on 3rd July 2018 and the Trial Court shall make every endeavour

to dispose of the Notice of Motion pending before it at the earliest and preferably within a period of four weeks.

8. At this stage, a statement is made at bar by learned counsel for Respondent Nos.1 to 7 that, at present, no one is occupying the subject building. It is, however, submitted by learned counsel for the Appellants that, the building is in a very busy and densely populated area and it has become dilapidated and dangerous. Therefore, the impugned notice was issued. In view thereof, it is made clear that, if on account of the order of ad-interim relief running in favour of Respondent Nos.1 to 7, any casualty happens, Respondent Nos.1 to 7 alone will be responsible therefor. Neither Appellants-MCGM, nor Respondent No.8-Landlord will be held responsible for the same.

9. In view of the above, Civil Application (Stamp) No.29719 of 2017, pending in the present Appeal from Order, does not survive and the same is disposed off as infructuous.

10. All concerned to act on the authenticated copy of this order.

[DR. SHALINI PHANSALKAR-JOSHI, J.]