

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

**APPEAL FROM ORDER NO.1140 OF 2014
with
CIVIL APPLICATION NO.1375 OF 2014**

Morris Benny Kinny

... Appellant

Vs.

Mumbai Metropolitan Region
Development Authority

... Respondent

Mr.Ranjit Thorat, Senior Advocate i/b S.Y. Amare for the Appellant
Mr.Kuldeep Patil for Respondent No.1

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: FEBRUARY 12, 2018**

P.C. :

1. This appeal challenges the order dated 21.11.2014 refusing to grant ad-interim relief whereby the legality of the notice issued under section 53(1) of the Maharashtra Regional Town Planning Act by the defendant/MMRDA was challenged. The learned Counsel for both the sides submit that the draft Notice of Motion is now fixed for hearing on 5.3.2018.
2. The impugned order was passed more than 3 years back. In view of this, in my view, the trial Court may proceed with the Notice of Motion and make take decision to go with the Suit if written

statement of the defendant is on record. This Court by its order dated 4.12.2014, granted ad-interim relief in terms of prayer clauses (a) and (b) in Civil Application. Considering the time gap and the nature of relief prayed in the Appeal, the following order is passed:

- i) The trial Court may proceed with the suit itself or may decide the Notice of Motion as may be convenient to it;
 - ii) The ad-interim relief granted on 4.12.2014 to continue till the decision of the Motion or Suit, whichever is earlier.
3. Appeal is disposed of accordingly.
4. Civil Application also stands disposed of.

(MRIDULA BHATKAR, J.)