IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST.) NO. 32001 OF 2018
WITH
CIVIL APPLICATION (ST.) NO. 32003 OF 2018
IN
APPEAL FROM ORDER (ST.) NO. 32001 OF 2018

Mr.Madan Mohan Shukla & Anr. .. Appellants
Vs.
(1) Municipal Corporation of Gr. Mumbai
through Asst. Municipal Commissioner & Ors. .. Respondents

Mr.B.R. Dalal, Advocate for appellants.

Mrs. Madhuri M. More, Advocate for MCGM.

CORAM : A.S. CHANDURKAR, J.
DATE : 29TH NOVEMBER 2018

P.C.

1 The original plaintiffs, being aggrieved by the refusal of the trial Court to grant ad-interim relief, have preferred the present appeal. By the draft notice of motion, it has been prayed that the defendants be restrained from taking any steps for demolishing the suit shop, viz., ground floor, 140, Amin Building, Kamathipura, Mumbai Central, Mumbai 400 008.

2 The trial Court, while refusing to grant said interim protection, has observed that premises in question were demolished on 3rd October 2018 and for that purpose the photographs placed on record were relied upon. This Court on 14th November 2018 noted the submission made on behalf of

the appellants that the appellants were carrying on business on a wooden plank and even after a portion of the suit property was demolished, the wooden plank was in existence. Accordingly, the parties were directed to maintain status-quo. The appellants were thus directed not to change the nature of the wooden plank and were also restrained from carrying on any further modification or construction work. An undertaking has been filed on behalf of the appellants today which is taken on record as Document 'X' in which it has been stated the nature of the wooden plank would not be changed nor would any further modification or construction be carried out therein till the Notice of Motion is decided.

3 Considering the fact that the order of the trial Court refusing to grant ad-interim protection is under challenge and that the respondent Nos.1 and 2 have now filed reply to the said notice of motion, the interests of justice would be served by passing the following order :-

O R D E R

(i) The Notice of Motion pending before the trial Court shall be decided expeditiously by the end of March 2019.

(ii) The appellants would be bound by the undertaking given by them and filed in Court today.

(iii) The ad-interim order of status-quo as granted on 14th November 2018 shall continue to operate till the Notice of Motion is decided.

It is clarified that this order would operate without prejudice to the rights and contentions of parties. The trial Court shall not be influenced by the grant of and continuation of the said relief and shall decide the Notice of Motion on its own merits.

(iv) The Appeal from Order is disposed of on aforesaid terms. All pending Civil Applications stand disposed of.

(A.S. CHANDURKAR, J.)