

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

**APPEAL FROM ORDER NO.7 OF 2016
WITH
CIVIL APPLICATION NO.11 OF 2016**

Afzal H. Khandwani and Ors. ..Appellant

vs.

The Municipal Corporation of Greater Bombay ...Respondent

Mr.V.A. Thorat, Senior Advocate a/w Mr. V.V. Thorat for the Appellant.
Ms.Madhuri More for the Respondent No.1/ MCGM.
Ms. Kavita Dhanuka i/b Mr. Chirag Shah for Respondent No.2.

CORAM : V. M. DESHPANDE, J.

DATE : 2nd JULY, 2018

P.C.:

. Heard learned counsel for the parties. Leased Senior counsel for the appellant fairly states that the present appeal is carried against the ad-interim order dated 10/12/2015 passed by City Civil Court at Dindoshi, Borivali Division, Mumbai in L.C. Suit No.3209/2015 rejecting ad-interim relief. He submits that Notice of Motion is still pending before the Trial Court. He submits that though there was no ad-interim order on 18/12/2015 this Court (Coram: R.D. Dhanuka,J) granted ad-interim protection and by the said order it was made clear that appellant will be staying at the suit premises at their own risk and that the Municipal Corporation and the landlord will not be responsible for any mishap. The said order is also continued by this Court on 5/4/2016 (Coram: N.M. Jamdar, J) and said order is continued till today.

2. Shri Thorat, learned senior counsel for the appellant submits that he wants to withdraw the present appeal and seeks direction from this Court to the Court below to decide the pending notice of motion as expeditiously as possible.

3. Ms. More, Learned counsel for the Respondent/Corporation made a statement that the building is in a dilapidated condition. The earlier orders which are referred in above paragraph are passed in 2016. However, till today the Corporation has not taken any steps for vacating any of these orders. In that view of the matter, I pass following order:

- i) Appeal is disposed of as withdrawn;
- ii) The learned Judge of the Trial Court is directed to decide notice of motion within a period of 6 weeks from today after hearing the parties to the notice of motion;
- iii) It is made clear that the appellants shall be occupying the property at their own risk and the Corporation or State Government or any other authority will not be held responsible for any mishap, if occurred;
- iv) Needless to mention that notice of motion will be heard by the learned Judge on its own merits. The learned Judge shall not get influenced by the observations made in this order. Civil application is also disposed of.

(V. M. DESHPANDE, J)