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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L)NO.948 OF 2018

Sudhakar Ramayya Shetty & Anr. ...Petitioners
vs.
Bombay Municipal Corporation
of Greater Mumbai ...Respondent

Ms Pratibha D. Nachankar for the Petitioners
Ms Pallavi Thakar for the respondent

CORAM : A.S.OKA, &
RIYAZ.I.CHAGLA,JJ.
DATE : MARCH 23, 2018

P.C.:

. Not on board. Taken on board.

1 Heard the learned counsel appearing for the petitioners. It is not in dispute that in respect of the stall subject matter of this petition, the petitioners have filed a civil suit in which injunction was sought restraining the Mumbai Municipal Corporation from removing the stall. Ad-interim relief was refused. Thereafter, in the Appeal from Order preferred by the petitioners, by order dated 6th December 2017 a limited protection was granted in respect of the said stall.

2 The contention of the petitioners is that in breach of the order passed by this Court in the Appeal from Order, the stall has been removed. In fact, the learned counsel for the petitioners states

that appropriate application has been filed in the pending suit making a grievance about demolition of the stall in breach of the order of this Court.

3 The relief which is sought in this petition can always be sought in the pending suit by filing appropriate application. We, therefore, decline to entertain this petition under Article 226 of the Constitution of India. Writ petition is rejected. However, remedy of the petitioners as aforesaid is kept open.

(RIYAZ.I.CHAGLA,J.)

(A.S.OKA,J.)