

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

**APPEAL FROM ORDER NO.146 OF 2019
WITH
CIVIL APPLICATION NO.181 OF 2019**

Izharul Haque Siddique and Ors. ... Appellants
Versus
Municipal Corporation for Greater Mumbai
and Anr. ... Respondents

.....

Mr. Anand Pande for the Appellants.
Mr. N.V. Walawalkar, Senior Advocate a/w. Ms. Oorja Dhond for
MCGM/Respondent.

.....

CORAM : M. S. KARNIK, J.

DATE : 23rd JULY, 2019.

P. C.:

1. Heard learned counsel for the appellants and learned Senior Counsel appearing on behalf of the respondent-Corporation.

2. The order under challenge in this Appeal is dated 12.10.2017 passed by the Judge, City Civil Court, Mumbai in Notice of Motion No.4511 of 2016 dismissing the Notice of Motion. The appellants-original plaintiffs filed a suit before the City Civil Court contending that they are entitled for the suit

accommodation as permanent alternate accommodation in lieu of their respective hutments from which they are dispossessed by the Corporation. It is however submitted that by virtue of the allotment letters issued in favour of the plaintiffs they were put in possession of rooms in building No.12/A situated at M.M.R.D.A. Sankalp Vashat, Natwar Parekh Compound, Ghatkopar- Mankhurd Link Road (Boria), Govandi, Mumbai.

3. It is the case of the appellants that the Corporation has sought to evict them without following due process of law. Learned counsel for the appellants submitted that the Corporation was not justified in seeking their eviction by declaring the defendants as trespassers. Learned counsel would submit that the allotment letters are in their favour. The said allotments are made in lieu of their respective hutments in their occupation. The appellants were occupying the said hutments which were demolished for road widening. He would submit that the Corporation permitted the appellant to occupy the suit premises. According to him once the Corporation issued allotment letters and the appellants are in occupation of the suit premises, the

Corporation has no right to remove the appellants without following due process of law. According to him the appellants are not trespassers.

4. Shri Walawalkar, learned Senior Counsel appearing on behalf of the Corporation invited my attention to the findings recorded by the Trial Court while dismissing the Notice of Motion. He would submit that the allotment letters are forged and fabricated documents and not signed by the concerned Assistant Commissioner. He would submit that the appellants were never put in possession of the suit premises. According to him on the basis of forged and fabricated documents they are in occupation of the suit premises. He would further submit that there is no other document in favour of the appellants to indicate that they were occupying the hutments so as to claim rightful allotment to the suit premises.

5. My attention is invited to the documents filed on record. Even the Annexure-II does not reflect the name of the appellants. On the last occasion I had granted time to the learned

counsel appearing on behalf of the appellants to submit any document in the form of Annexure-II which would indicate that the appellants were in occupation of the hutments so as to enable them to claim occupancy rights in the suit premises.

6. In my opinion if the letters of allotment on the basis of which the appellants are claiming possession are forged and fabricated documents as is the contention of the Corporation, the appellants are rightly denied relief by the Trial Court in the absence of any other document to indicate their lawful occupation in the suit premises. No interference is warranted in the order of the Trial Court.

7. The Appeal From Order is therefore dismissed.

8. In view of the dismissal of the Appeal From Order, nothing survives for consideration in the Civil Application. The Civil Application is disposed of accordingly.

9. It is made clear that the Trial Court may proceed with the Suit on its own merits without being influenced by any observations made by the Trial Court in the impugned order.

The learned counsel for the appellants make a request to continue the ad-interim relief granted by this Court. Considering the nature of the controversy, in my opinion this is not a fit case to continue ad-interim relief granted by this Court.

(M. S. KARNIK, J.)