

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST) NO.336/2019
WITH
CIVIL APPLICATION (ST) NO.337/2019

Narendra Raghunath Thakur ... Appellant

V/s.

Municipal Corporation of Gr. Mumbai ... Respondent

Mr. Pratap Singh for the Appellant
Mrs. Madhuri Mane for Municipal Corporation

CORAM: K.K. TATED, J.

DATED : MARCH 13, 2019

P.C. :

1 Heard. By this appeal, the Appellant – Plaintiff challenges the order dated 11.12.2018 passed by the Bombay City Civil Court in Notice of Motion No.3383/2014 in L.C.Suit No.1288/2014 dismissing the Notice of Motion filed by the Plaintiff without granting any injunction in their favour.

2 It is to be noted that the Trial Court, at the time of passing the impugned order dated 11.12.2018 has specifically recorded in paragraph 6 that the Respondent corporation has already demolished the suit structure. The Trial Court has also relied on the Commissioner's report. In view of these facts, it is made clear that there is no question of granting interim or ad-interim relief in favour of the Appellant – Plaintiff in respect of the suit structure at all.

3 When this court declined to entertain the present appeal, the learned counsel for the Appellant submits that the Appellant - Plaintiff would make a proper representation to the Respondent Corporation within 30 days along with entire proceedings. The Municipal Corporation to decide the same according to law.

4 In view of the statement made by the learned counsel for the Appellant, following order is passed:

a. The Appellant is permitted to make a proper representation within 30 days to the Municipal Corporation on the basis of notice u/s.354A of the Mumbai Municipal Corporation Act, 1888 dated 25.04.2014 along with entire proceedings.

b. If such representation is made within time, the Respondent Corporation is directed to consider the same on merits and pass appropriate order and communicate the same to the Plaintiff .

c. No ad-interim or interim relief in favour of the Appellant - Plaintiff.

d. The Appeal from Order and Civil Application stand disposed of accordingly.

(K. K. TATED, J.)