

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.150 OF 2019
WITH
CIVIL APPLICATION NO.521 OF 2019

Bindu Shailen Mewar Appellant-Applicant
V/s.
The Municipal Corporation of Greater Mumbai.... Respondent

ALONG WITH
FIRST APPEAL NO.151 OF 2019
WITH
CIVIL APPLICATION NO.522 OF 2019

ALONG WITH
FIRST APPEAL NO.152 OF 2019
WITH
CIVIL APPLICATION NO.523 OF 2019

ALONG WITH
FIRST APPEAL NO.153 OF 2019
WITH
CIVIL APPLICATION NO.524 OF 2019

ALONG WITH
FIRST APPEAL NO.154 OF 2019
WITH
CIVIL APPLICATION NO.525 OF 2019

ALONG WITH
FIRST APPEAL NO.155 OF 2019
WITH
CIVIL APPLICATION NO.526 OF 2019

ALONG WITH
FIRST APPEAL NO.156 OF 2019
WITH
CIVIL APPLICATION NO.527 OF 2019

Mehrunnissa Kalimullah Sayed Appellant-Applicant
V/s.
The Municipal Corporation of Greater Mumbai.... Respondent

ALONG WITH
FIRST APPEAL NO.157 OF 2019
WITH
CIVIL APPLICATION NO.528 OF 2019
ALONG WITH
FIRST APPEAL NO.158 OF 2019
WITH
CIVIL APPLICATION NO.529 OF 2019

Jhaverbhai Tarjabhai Patel Smarak Trust Appellant-Applicant
V/s.
The Municipal Corporation of Greater Mumbai.... Respondent

Mr. Shoaib I. Memon, with Ms. Iram Memon, for the Appellant-Applicant.

Mrs. Madhuri M. More, with Ms. Oorja Dhond, I/by Mr. J.J. Xavier, for the Respondent-MCGM.

Mr. Sunil Choudhari, Senior Inspector – License, 'D' Ward, is present.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 4TH FEBRUARY, 2019.

P.C. :

1. Heard learned counsel for the Appellants and Respondent-Municipal Corporation.

2. As per the order passed by this Court on 1st February 2019 and in view of the submissions made by learned counsel for the Appellants that, in view of the liberty granted by the Trial Court in its impugned order, the Appellants would like to approach the Appellate Authority /

Additional Municipal Commissioner for redress of their grievance against the impugned order on or before 4th February 2019.

3. Learned counsel for the Respondent-Municipal Corporation has sought time to take instructions.

4. Today, learned counsel for the Respondent-Municipal Corporation has filed written instructions on record, received from the Senior Inspector, (Lic.), 'D' Ward, Mumbai, along with the copy of the order passed by the Division Bench of this Court on 30th July 2012 in Writ Petition No.1132 of 2002, along with several Notices of Motion. In the said Writ Petition, the clear directions are given in paragraph No.6, as follows :-

“6. Having heard the learned counsel for the parties, we are of the view that interest of justice will be served if this Writ Petition is disposed of in terms of the following directions:-

i. The Municipal Corporation of Greater Mumbai shall consider the applications for renewal of licence or display of hoardings / sky signs / advertisements in accordance with the modalities suggested in the aforesaid affidavit dated 27 July 2012, subject to the following modifications and clarifications:-

a) No hoarding / sign-board / sky sign licence / permission shall be granted or renewed by the

Municipal Corporation of Greater Mumbai, except in accordance with the law and every such licence / renewal of licence / permission shall bear the endorsement / certification of the Zonal Deputy Municipal Commissioner that he is satisfied that the grant / renewal is in accordance with the law. All applications for renewal of the licence / permission shall be considered only if made at least 8 weeks prior to their expiry.

b) All existing hoardings / sign-boards / sky-signs in respect of which the permission / licence has expired, shall be removed by the Corporation unless (i) an application for renewal of the same has been made (which application shall be disposed of within 4 weeks from the date hereof) or (ii) the removal of such hoarding has been stayed by an order of the Competent Court.

c) In all proceedings relating to hoardings, whether pending or future where the Corporation is a party, the Corporation is directed to place this order before the concerned Court.

ii. In case the endorsement that the hoardings / sky signs / advertisements in respect of which the licence has been granted / renewed, conforms to and in compliance with policy guidelines shall provide that the compliance with and conformity is with policy guidelines as may be modified from time to time.”

5. Needless to state that, as these directions are to apply not only to the pending applications, but also to the future applications, wherever

Corporation is party, and a specific direction was given to the Corporation to place these directions before the concerned Court in the proceedings relating to the hoardings, these directions are required to be obeyed and followed.

6. In the light of these directions only, the Appellants were given a liberty by the Trial Court to approach the Appellate Authority / Additional Municipal Commissioner for redress of their grievance on or before 4th February 2019.

7. Admittedly, till today, the Appellants have not approached the Appellate Authority / Additional Municipal Commissioner to redress their grievance. Learned counsel for the Appellants seeks time of two weeks to approach the Appellate Authority / Additional Municipal Commissioner.

8. The time will be extended, but subject to the directions given in Writ Petition No.1132 of 2002 by the Division Bench that, hoardings will not be removed; however, display will be discontinued.

9. Learned counsel for the Respondent-Municipal Corporation has placed written instructions on record, according to which, within four weeks from the receipt of the Appeals, the same will be decided. The said

written instructions are taken on record and marked as 'Annexure-A'.

10. In view thereof, all these Appeals, along with Civil Applications thereto, stand disposed off, with a liberty to the Appellants to approach the Appellate Authority / Additional Municipal Commissioner for redress of their grievances.

11. Till their Appeals are decided within the stipulated period, as stated above, i.e. within a period of four weeks from the Appeals being filed by the Appellants, the hoardings need not be pulled down; however, at the same time, the advertisements shall not be displayed.

12. The Appellate Authority / Additional Municipal Commissioner shall make an endeavour to hear and decide the Appeals, to be preferred by the Appellants, as expeditiously as possible and in any case within a period of four weeks from the receipt of such Appeals.

13. Needless to state that, after the decision in the Appeals, all the remedies, which are available to the Appellants, will remain open.

[DR. SHALINI PHANSALKAR-JOSHI, J.]