

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST.) NO.18175 OF 2018

IN

CIVIL APPLICATION (ST.) NO.22692 OF 2018

IN

APPEAL FROM ORDER (ST.) NO.18175 OF 2018

Dennis Albert Gomes and another ... Appellants

Vs.

The Municipal Corporation of Greater Mumbai

and others

... Respondents

Mr. Sanjiv Sawant i/b. Mr. Abhishek P. Deshmukh for Appellants.

Mr. Vinod Mahadik for Respondent No.1-M.C.G.M.

Mr. Albert P. Gomes for Respondent No.2.

Mr. Ashok Manik Misal for Respondent No.3.

CORAM : R. G. KETKAR, J.

DATE : AUGUST 5, 2019

P.C. :

Heard Mr. Sawant, learned Counsel for the appellants, Mr. Mahadik, learned Counsel for the respondent No.1, Mr. Gomes, learned Counsel for the respondent No.2 and Mr. Misal, learned Counsel for the respondent No.3.

2. By this Appeal under Order XLIII, Rule 1(r) of the Code of Civil Procedure, 1908, the appellants, hereinafter referred to as 'plaintiffs', have challenged the order dated 16.02.2018 passed by the learned trial Judge in Notice of Motion No.2525 of 2017 in L.C.Suit No.517 of 2010. By that order, the learned trial Judge dismissed the Motion taken out by the plaintiffs for injunction restraining defendants No.1 and 2-M.C.G.M. from processing and / or approving the proposal of the defendant No.2 society submitted vide application dated 25.01.2010 in respect of plot bearing C.T.S.No.5A (part), Survey No.22-C, Hissa No.3-B

admeasuring about 783.33 sq.mtrs. situate at Village Sahar, Andheri (East), Mumbai 400 099 (for short 'suit property') and for restraining the defendant No.3 from carrying out any construction activities on the suit property.

3. Mr. Sawant states that appellant No.2-Ashley Gomesh is present in the Court. He has tendered photocopy of his PAN Card, which is taken on record and marked 'X' for identification. After arguing the Appeal for quite some time and upon taking instructions from the appellant No.2, he seeks permission to withdraw the Appeal. He further states that plaintiffs will take out appropriate application in the trial Court for disposal of the Suit expeditiously.

4. In view thereof, on the motion made by Mr. Sawant, Appeal from Order is allowed to be withdrawn and is dismissed as withdrawn. In case the application for disposal of the Suit expeditiously is filed, the learned trial Judge will pass appropriate orders. Order accordingly.

5. In view of the dismissal of the Appeal from Order, nothing survives in Civil Application (St.) No.22692 of 2018 for injunction and the same is disposed of accordingly.

(R. G. KETKAR, J.)

Minal Parab