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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER ST.NO.24274 OF 2017

Rajendra Singh ...Appellant
vs.
Municipal Corporation of
Greater Mumbai ...Respondent

Mr.Amogh Singh I/b Shri D.P.Singh for the Appellant
Ms Madhuri More for the MMC.
Ms Geetanjali Chaphalkar, Sub Engineer of R/North
ward of MMC present.

CORAM : M.S.KARNIK, J.
DATE : JULY 10, 2019

P.C.:

1 The appellant challenged the order dated 16th August 2017 passed by the Ad-hoc Judge, City Civil Court, Mumbai refusing to grant temporary injunction against Municipal Corporation from demolishing the suit structure. The Corporation issued notice dated 29th May 2014 under section 354 of the Mumbai Municipal Corporation Act, 1888 (for short "the said Act").

2 The learned counsel for the appellant relied upon the structural audit report to indicate that the structure is not in dilapidated condition and requires repairs. There is some controversy as to whether the matter has been referred to Technical Advisory Committee (for short "TAC") or not as per

the guidelines. The Trial Court in paragraph 8 of its order recorded that as per the contentions raised in the Written Statement, the matter is referred to TAC for obtaining report. Ms More appearing for Municipal Corporation relied upon the communication dated 10th April 2019 wherein it is clearly mentioned that the issue could not be referred to TAC as the appellant did not submit Proforma B in the office. The observations in the communication dated 10th April 2019 are not sustainable.

3 In this view of the matter, the learned counsel for the appellant has taken instructions and submits that the Appellant would submit Proforma B as required by the Corporation within a period of one week from today. He would further submit that he is willing to submit fresh structural audit report along with Proforma B within a period of one week from today. If the appellant submits Proforma B within one week from today or if the appellant submits fresh structural audit report along with Proforma B within one week from today, the TAC to consider the issue afresh within a period of one week thereafter. The appellant undertakes that their Structural Auditor/Consultant will remain present before the TAC on 19th July 2019 at 11.30 a.m when the TAC will proceed to decide the matter in accordance with law.

4 Appeal from Order is allowed to this extent. Ad-interim order which is in operation to continue

till the TAC submits the report. The undertaking that the occupants will reside in the structure which is already submitted to continue. Appeal is disposed of. In view of disposal of the Appeal, Civil Application is also disposed of.

(M.S.KARNIK,J.)