

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER (STAMP) NO.22746 OF 2019
WITH
CIVIL APPLICATION (STAMP) NO.22748 OF 2019
IN
APPEAL FROM ORDER (STAMP) NO.22746 OF 2019**

Laxmi Welfare Association

...Appellant

vs.

Municipal Corporation for Greater Mumbai ...Respondent

.....

Mr. Manoj Kumar Upadhyay, a/w. Ms. Sumandevi Yadav, for the Appellant.

Mr. N.V. Walawalkar, Senior Advocate, a/w. Ms. Madhuri More, for the Respondent-MCGM.

Mr. Paresh N. Shah, Sub-Engineer, P/South – MCGM present.

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CORAM : S.C. GUPTE, J.**DATED : 21 AUGUST 2019****P.C. :**

. Heard learned Counsel for the parties. This appeal from order challenges an order passed by the City Civil Court in its Borivali Division at Dindoshi, Mumbai on a notice of motion taken out by the Appellant (original plaintiff) in a suit challenging a demolition notice. The Appellant is an Association of occupants of the building. After the matter is heard at some length, learned Counsel for the Appellant, on taking instructions from the office bearers of the Association, who are

present in Court, states that the occupants of the suit building shall vacate their respective premises and remove all their belongings within a period of one month from today and, till then, the Respondent Corporation ought not to proceed with the demolition of the suit building. Learned Counsel submits that such of the occupants, as choose to remain at site during this period of one month, shall do so at their own risk. Learned Counsel submits that suitable directions may be passed by this Court with a view to protect the rights of the occupants vis-a-vis reconstruction of the suit building. Learned Counsel for the Respondent Corporation submits that the Corporation has been uniformly following its policy, in accordance with law, to protect the rights of the occupants whenever buildings are demolished on the ground of their structural instability or threat to life and property. Learned Counsel submits that the Corporation would not oppose any suitable direction that the Court may pass in this behalf. Learned Counsel, however, submits that considering the fact that the building is very old and also dilapidated and considering the fact that the demolition work has already started and part of the structure has been demolished, the Corporation is of the view that no occupant should continue to occupy the premises even for the period of one month that the Appellant is asking for. This Court makes it very clear that it is acceding to the request of the Appellant to permit the occupants to vacate their respective premises within one month from today only because the occupants may have their belongings and household goods in their respective premises and those may require some time for being removed.

2. In the light of the foregoing narration, the following order is

passed:

(i) All occupants of the suit building, namely, Laxmi Niwas at Goregaon (West), Mumbai, described in paragraph 1 of the plaint, shall vacate their respective premises within a period of one month from today.

(ii) In case the occupants or any of them do not or does not vacate the premises after the end of one month, the Corporation shall be at liberty to go ahead with the demolition work undertaken by it.

(iii) It is made clear that the occupants' right to have alternative premises in lieu of their accommodation in the suit building in the reconstructed building on the same plot, shall be preserved and the Corporation is directed to include suitable conditions in that behalf whenever any application for development of the plot, on which the suit building stands, is made. The Corporation shall abide by all the relevant provisions of law as well as its own policy in this behalf.

(iv) It is clarified that since water and electricity supply to the suit building have already been disconnected, no attempt shall be made by anyone to restore the water or electricity supply.

(v) The office bearers of the Association, who represent the occupants of the suit building, are present in Court and, on their instructions, learned Counsel for the Appellant states that any occupation of premises in the suit building by individual occupants shall be at their

own risk and the Respondent Corporation shall not be responsible for any mishap or incident connected with such occupation.

(vi) It is made clear that the Respondent Corporation, its agents, and/or any security employed at site shall co-operate with the occupants of the suit building for removal of their belongings during the period of one month noted in clause (i) above.

(vii) The appeal from order is disposed of in the above terms.

(viii) No order as to costs.

3. In view of the disposal of the appeal from order, the civil application does not survive and is disposed of.

Smita
Gonsalves

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(S.C. GUPTE, J.)