

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 938 OF 2011
WITH
CIVIL APPLICATION NO. 2424 OF 2018

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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MS. Shital Mane – Tadke I/b R.A. Malandkar for the Appellant/Corporation.

Mr. Vishesh Kalra a/w Hersh Choudhary & Vishal Dushing I/b Vidhi Partners for the Respondent.

CORAM: K.K.TATED, J.

DATED : 23/09/2019

P.C.

1 Heard learned Counsel for the parties.

2 By this First Appeal, the Appellant Municipal Corporation is challenging the Judgment and Decree dated 28.12.2007 passed by Bombay City Civil Court at Dindoshi in L.C. Suit No. 4163 of 1999 restraining the Appellant from taking any action pursuant to the notice dated 25.06.1999 issued under Section 351 of the MMC Act and order dated 08.07.1999 in respect of the suit structure namely stall admeasuring 12 x 8 x 6.9 x 9.3 situated in the compound of building known as Dadbhawala Sada, Plot No. 584, Sankar Mathan Road, Matunga, Mumbai – 400 019.

3 The learned Counsel for the Respondent original Plaintiff made a statement before this

Court that they already removed the suit structure on their own. Therefore, nothing survives in the First Appeal.

4 In view of this statement made by the learned Counsel for the Respondent original Plaintiff, Advocate Ms. Mane appearing for Corporation took some time. Thereafter, the Appellant verified this fact with their concerned officer. The learned Counsel for the Appellant Corporation submits that suit structure is removed by the Respondent on their own. She submits that to that effect they have filed affidavit dated 04.09.2019 through Mr. Parag Gadekar, working as Assistant Engineer, (B&F) F/N Ward, admitting the fact that Respondent original Plaintiff removed the suit structure.

5 The learned Counsel for the Appellant Corporation submits that in view of this fact, she received instructions from her client to withdraw the First Appeal. To that effect she has given in writing. Same is taken on record and marked "X" for identification. Same is accepted.

6 Hence, following order is passed:

- a) First Appeal stands dismissed as withdrawn.
- b) Civil Application No. 2424 of 2018 stands dismissed as infructuous.
- c) No order as to costs.

(K.K.TATED, J.)