

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO. 471 OF 2019****WITH****CIVIL APPLICATION NO. 538 OF 2019****IN****APPEAL FROM ORDER NO. 471 OF 2019**

Govindbhai Laxman Padaya & Ors.

.....Appellants.

Vs.

The Mumbai Municipal Corporation
of Greater Mumbai.

.....Respondent.

Mr. Sanjeev Sawant i/by A.P. Deshmukh for the Appellants.

Mr. J.F.Rais, Senior Counsel with Mrs. Madhuri M. More for the
Respondent.**CORAM : A. S. GADKARI, J.****DATE : 27th NOVEMBER, 2019.****PC.:-**

During the course of arguments, learned counsel appearing for the Appellants was confronted with the pleadings in the Plaint wherein, the Appellants have sought injunction against the Respondent-Corporation pertaining to property bearing survey Nos.4, CTS No. 8 (Part) Village Parigha Khadi, Taluka Andheri, MSD Mumbai admeasuring 17937 sq. yards has been described.

2 The record indicates that, the City Civil Court, Mumbai has passed decree in favour of the Appellant in L.C. Suit No. 3601 of 2007

pertaining to land bearing Survey No. 276 (part), CTS No. 581 (part) of village Kurla, Part IV, Taluka Kurla, M.S.D. Mumbai admeasuring 8937 1/3 sq. yards.

It appears that, while filing the present Suit, the Appellants have also incorporated an additional area of 9000 sq. yrds in the pleadings and had sought injunction against the Respondent-Corporation. The Trial Court has rejected the said prayer of the Appellants for grant of injunction.

3 Facing with the said difficulty, learned counsel for the Appellants, on instructions, seeks leave to withdraw the present Appeal with liberty to amend the Plaint and to restrict his claim for injunction for 8937 1/3 sq. yards of Suit land. He further seeks liberty to file a fresh motion for injunction in that behalf.

Leave and liberty granted.

Petition is disposed of as withdrawn, with aforesaid liberty.

Contentions of both the parties are expressly kept open.

4 In view of dismissal of the Appeal, Civil Application No. 538 of 2019 does not survive, and the same is also disposed off.

(A.S. GADKARI, J.)