

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER (ST)NO. 27167 OF 2019
WITH
INTERIM APPLICATION NO. 1 OF 2019**

Shyam Roopchand Jaisingh & Ors.

...Appellants

vs.

The Municipal Corporation of Greater Bombay & Ors. ...Respondents

Mr.Amogh Singh i/b. Dhirendra P. Singh for Appellants.

Mrs.Madhuri More for MCGM.

Mr.M.M. Vashi, Senior Advocate with Aparna Deokar for Respondent No.3.

Mr.R.B. Mokashi for Respondent No.4.

CORAM : S.C. GUPTE, J.

DATE : 9 OCTOBER 2019

P.C. :

This appeal from order challenges an ad-interim order passed by the City Civil Court at Mumbai on a notice of motion taken out by the Appellants (original Plaintiffs). By the impugned order, the Plaintiffs' ad-interim application was rejected by the trial court. After the appeal from order is partly heard, it is agreed between learned Counsel for the parties that the appeal from order may be disposed of in terms of the following order.

2 It is, accordingly, ordered as follows :

(I) The City Civil Court at Mumbai shall hear and dispose of the notice of motion, in which the impugned order came to be passed, as expeditiously as possible and preferably within a period of three months from today.

(II) The Defendants shall file their reply to the notice of

motion within two weeks from today. Rejoinder, if any, shall be filed within one week thereafter.

(III) Pending the hearing and final disposal of the notice of motion, Defendant Nos.3 and 4 agree that they shall maintain status quo in respect of the suit property.

(IV) Registry is directed to appoint an officer of the court as a commissioner for finding out the status of the suit property in terms of the structure existing at site as of today. The commissioner shall also take photographs in support of his/her report and make them part of the report. The report prepared by the commissioner shall be submitted to the City Civil Court hearing the notice of motion. The order of status quo shall, accordingly, be complied with by Defendant Nos.3 and 4 *vis-a-vis* construction / repairs to the two structures, which form the subject matter of the present suit. This is without prejudice to the contention of the Appellants / Plaintiffs that the construction that has come up as of date after the impugned order was passed, i.e. 5 October 2019.

(V) The appeal from order is disposed of accordingly.

(VI) It is clarified that this order has been passed purely on the basis of concession made by the parties and not after considering the merits of the case. The City Civil Court hearing the notice of motion, shall consider the merits of the case independently and arrive at its conclusion without being, in any way, influenced by the fact that the Defendants agreed before this court to maintain status quo

in respect of the structures being part of the suit property.

(VII) In view of the disposal of the appeal from order, the interim application does not survive and is disposed of.

(S.C. GUPTE, J.)