

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

Civil Application No.2124/2016

in

First Appeal No.1228/2019

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| 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 for the Applicant  
Mr. J. S. Yadav I/b. B. S. Shukla for  
Respondent No.1.

**CORAM: K.K.TATED, J.**

**DATED : SEPTEMBER 19, 2019**

**P.C.**

1 Heard. By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and decree dated 13.11.2014 passed by the Bombay City Civil Court at Mumbai in L.C.Suit No.1136/2011 holding that the notice dated 11.11.2010 issued by them u/s.351 of the Mumbai Municipal Corporation Act, 1888 and order dated 30.05.2011 in respect of the suit premises as illegal and bad in law. The Trial Court has also restrained the Appellant from demolishing the suit structure i.e. structure admeasuring 20' x 60' made of B.M. wall and A.C.sheet roof situated at Sy.No.950 (pt), New Link

Road, Dahisar (W), Mumbai -400068  
pursuant to the said notice and order.

2 The learned counsel for the Applicant submits that in the present proceedings the Respondent - Plaintiff has placed on record the Census Certificates dated 24.12.1978 at Exhibit-22 and 23 in respect of the suit premises. He submits that the said certificates were cancelled subsequently by the competent authority and therefore, the Respondent is not entitled to any protection from this court. Hence, the impugned judgment and decree is liable to be set aside.

3 It is to be noted that in the present proceedings the suit filed by the Respondent - Plaintiff is decreed by the court on the basis of documents placed on record i.e. census certificates in respect of the suit premises at Exhibit-22 and 23. Whereas, the Applicant has failed to place on record any document to show that the said certificate was cancelled subsequently by the competent authority.

4 In any case, the prayers made in the

Civil Application are in terms of the final disposal of the First Appeal which cannot be granted at this stage.

5 Hence, the Civil Application stands dismissed.

6 No order as to costs.

**(K.K.TATED, J.)**