

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 761 OF 2018
IN
FIRST APPEAL NO. 78 OF 2014

Thane Municipal Corporation through
its Commissioner .. Applicants

Versus

Dilip Mansukhlal Shah & Ors. .. Respondents

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- Mr. Ram Apte, Sr. Advocate i/by Mr. Mandar Limaye for the Applicant in CAF 761/18
- Mr. Karl Tamboly with Mr. Nitesh Ranavat, Ms. Tanvi Shah, Ms. Disha Shetty i/by Wadia Ghandy & Co for Respondent No. 28A and Applicant in MCA (ST) No. 2481 of 2019
- Mr. Nikhil Sakhardande a/w Mr. Chirag Kamdar, Mr. Rubin Vakil, Mr. Ravi Gandhi & Mr. Rishabh Ranka i/by Kango & Co for the Applicant in FA 78/14 & Resp Nos. 1 and 3 in CAF 761/18
- Mr. Bhushan Deshmukh i/by Prasanna Tare for Respondent Nos. 1 to 4, 8 to 10 in WP St. 18001/19 and Respondent Nos. 18 to 21 and 25 to 27 in MCA st 2481/2019
- Ms. Akanksha Agarwal i/by Mr. Amey Deshpande for the Petitioner in WP St. 18001/2019

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CORAM : AKIL KURESHI &
S.J. KATHAWALLA, JJ.

DATE : SEPTEMBER 30, 2019.

P.C.:

1. This civil application is filed by Thane Municipal Corporation ("**TMC**" for short). The proceedings arise out of Civil Suits concerning land admeasuring 333 acres (approx.) bearing various Gat numbers situated in Thane (hereinafter referred to as the "**suit land**"). Various parties claimed ownership of the suit land in different proportions. Since the disputes are *interse*, civil suits are filed. Some interim orders are passed. Interim applications are pending before the Civil Courts. First Appeal No. 78 of 2014 arises out of the decision of the Trial Court to accept the application of the defendant under Section 9A of the Code of Civil Procedure and declaring that the Court had no jurisdiction on the ground that the suit was barred by limitation and consequentially the suit came to be dismissed. In such appeal, the TMC has filed this Civil Application. The substantial prayer made in the Civil Application reads as under:-

"b. That the Respondents be directed to handover the land admeasuring 422695.38 sq mtrs out of land bearing Gat No. 63/2(p) 63/3(p), 63/4(p), 65(p), 68(p), 68 and 78(p) at Mouje Khari Tal & Dist Thane for the development of reservations, as mentioned in Annexure A to the Application in accordance to the State Govt's policy dated 29th Jan 2016 on the same, and further clarification issued by Govt."

2. This prayer arises out of the averments made in the Civil Application that the Corporation requires certain portions of the suit land for various purposes which are in the nature of development of the city. In order to do so, the TMC needs the lands. Such lands are already put under reservation.

3. In facts of the present case, it is clarified that no interim order passed in any of the pending suits before the Civil Court or in the proceedings before this Court arising out of such civil suits would prevent the TMC from proceeding further in accordance with law for development / acquisition of the required land. It is clarified that the contention of the parties in relation to any such proposal of the TMC are kept open. It is, however, clarified that pursuant to any such steps that the TMC may take, if there is a question of payment of compensation or TDR to be granted to any of the parties, such amount of compensation or as as the case may be TDR shall be deposited before the Civil Court in the pending Civil Suits, the disbursement thereof shall be subject

to the further orders that may be passed in such suits or final outcome thereof.

4. With these observations and directions, the Civil Application is disposed of.

[S.J. KATHAWALLA, J.]

[AKIL KURESHI, J]