

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

APPEAL FROM ORDER NO.286 OF 2018

WITH

CIVIL APPLICATION NO.375 OF 2018

WITH

APPEAL FROM ORDER NO.284 OF 2018

WITH

CIVIL APPLICATION NO.373 OF 2018

WITH

APPEAL FROM ORDER NO.285 OF 2018

WITH

CIVIL APPLICATION NO.374 OF 2018

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr.Altaf Khan i/b Ms.Kavita Rathod for the
appellant

Ms.Oorja Dhond for the BMC

**CORAM : K. K. TATED, J
DATE : APRIL 10, 2019**

P.C.:

. Heard.

2 By this Appeal from Order, appellant original plaintiff are challenging the order passed by Bombay City Civil Court at Bombay, declining to grant any ad-interim relief in favour of the plaintiff.

3 The learned counsel for the appellant original plaintiff submits that they filed Special Civil Suit in Bombay City Civil Court at Bombay for an order and injunction under Order XXXIX Rule 1 of the Code of Civil Procedure, 1908 and under the provisions of Specific Relief Act, 1963 restraining Respondent Corporation from taking any action against their suit structure on the basis of public notice no.A.C./H./E./SA./1227 dated 28.11.2017.

4 The learned counsel for the appellant original plaintiff submits that subsequently the said public notice was challenged by some of the persons by filing Writ Petition No.3501 of 2017 before this court. He submits that the said public notice was set aside by the Division Bench of this court (Coram: A.S.Oka & P.N.Deshmukh, JJ.) by order dated 7.2.2018. Paragraph 4 of the said order reads thus:

"4. Hence, we dispose of the petition by passing the following order:

(I) We hold that the act of publication of public notice at Exhibit-A cannot be termed as due process of law which can be followed before the structures of the petitioners are demolished;

(II) Subject to what is observed above, we restrain the respondent Nos.1 and 2 from demolishing the structures of the petitioners on the basis of the said public notice dated 28th November 2017 (Exhibit-A to the petition);

(III) We make it clear that it is always open for the said respondents to follow due process of law and demolish the structures of the petitioners/evict the petitioners;

(IV) All contentions of the parties in that behalf are kept open;

(V) We make it clear that this order will not affect the pending proceedings under the Slum Act;

(VI) Writ petition is disposed of."

5 On the basis of these submissions, the learned counsel for the appellant submits that impugned order passed by the Bombay City Civil Court at Bombay is required to be set aside directing Respondent Corporation not to take action against their structure pursuant to

the public notice issued by them.

6 On the other hand, the learned counsel for the Respondent Corporation submits that, she received instructions from her client by letter dated 10.04.2019 stating that, they are not going to take any action against the petitioner pursuant to the public notice issued by them. She further submits that they will follow due process of law according to Mumbai Municipal Corporation Act. To that effect, she has placed on record the said letter dated 10.04.2019 duly issued by Asst. Engineer Maintenance-(II) H/East Ward. Same is taken on record and marked 'X' for identification.

7 In view of subsequent development, nothing survives in the present proceeding. Hence, all the Appeals from Order as well as Civil Applications stand disposed of accordingly.

8 No order as to costs.

(K.K.TATED, J.)