

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

**SECOND APPEAL NO.738 OF 2018
WITH
CIVIL APPLICATION NO.1650 OF 2018
IN
SECOND APPEAL NO.738 OF 2018**

Sadashiv Harishchandra Thankur ... Appellant
Versus
City Industrial & Development Corporation
Ltd. Through Chief Controller ... Respondent

.....
Mr. Moinuddin Ahmed Khan for Appellant.
Mr. Ashutosh M. Kulkarni for Respondent.

.....
CORAM : M. S. KARNIK, J.
DATE : 18th JUNE, 2019.

P. C.:

1. Heard learned counsel for the appellant.
2. After arguing the matter for sometime the learned counsel for the appellant seeks leave to withdraw the Appeal.
3. The objection raised by CIDCO before the Trial Court that the Suit is not maintainable in view of Section 149 of the Maharashtra Regional and Town Planning Act ('MRTP Act' for short) was upheld in an application made by CIDCO under Order 7 Rule 11 of Civil Procedure Code. The matter was carried in Appeal. The Appeal came to be dismissed.

4. After arguing for sometime learned counsel submitted that he would take necessary remedies as provided in law to challenge the notice under Section 149 of the MRTP Act and/or for regularisation of the structure.

5. Shri Kulkarni appeared on behalf of CIDCO points out that appellant has already filed a Writ Petition. As the appellant is seeking withdrawal of this Appeal and as the objection of CIDCO that the suit is not maintainable has been upheld, the appellant is obviously entitled to pursue his remedies as provided in law to challenge the notice or to apply for regularisation if permissible. The Appeal is allowed to be withdrawn.

6. Learned counsel for the appellant prays that the status quo granted by this Court on 1st January 2019 be continued for a period of six weeks.

7. Shri Kulkarni vehemently opposes the continuation of the interim order.

8. Considering that the interim order is operating from 1st January 2019, in the interest of justice, the same is continued for a further period of six weeks from today.

9. It is clarified that in the meantime, the appellant will not change the nature of the suit premises.

10. The Appeal is disposed of as withdrawn.

11. In view of the disposal of the Appeal, the Civil Application is also disposed of.

(M. S. KARNIK, J.)