

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (L) NO. 149 OF 2019
IN
NOTICE OF MOTION NO. 2288 OF 2016
IN
SUIT NO. 2511 OF 2007

WITH
NOTICE OF MOTION NO. 575 OF 2019

Pantanagar Gangasagar	}	
Co-operative Housing	}	
Society Ltd.	}	Appellant
versus		
1(A) Shantilal Amrutlal	}	
Chauhan and Ors.	}	Respondents

Mr.Ajit Tamhane with Mr.Ashish Ghami and
Mr.Rohan Tamhane i/b. M/s.Tamhane and Co. for the
appellant.

Mr.Mayur Khandeparkar with Mr.P. Shetty i/b.
M/s.Vidhi Partners for respondent no.2.

Mr.Dadasaheb Shingade for respondent no.3(MCGM).

Mr.P.G.Lad with Ms.Aparna Muralidharan and
Ms.Sayali Apte for respondent no.4 (MHADA).

Mr.Mukesh S. Chauhan-plaintiff (1b) present.

CORAM :- S. C. DHARMADHIKARI &
G. S. PATEL, JJ.

DATED :- JULY 12, 2019

P.C. :-

1. Having heard Mr.Tamhane at some length, we find that the impugned order has been passed on a notice of motion moved by the present appellant. The present appellant-original defendant no. 2 sought a relief in Suit No. 2511 of 2007. That suit is instituted by the plaintiffs. In the plaintiffs' suit, the defendant could not have obtained a relief that is now sought in the proceedings. We do not think that the learned Single Judge was, therefore, in error in refusing the request.

2. By clarifying that the order under challenge does not preclude or prevent defendant no. 2 from instituting substantive proceedings and claiming such reliefs as are permissible in law, we dismiss this appeal.

3. In the light of the dismissal of the appeal, the notice of motion does not survive and stands disposed of as such.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)