

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) NO. 3407 OF 2020
ALONGWITH
FIRST APPEAL (ST) NO. 3410 OF 2020

Shyam Ramchandra Shirke

..... Appellant

VERSUS

**Municipal Corporation of Greater Mumbai
& Ors.**

..... Respondents

Dr.Abhinav Chandrachud, a/w. Mr.Tushar Dahibawkar, Ms.Vrushali Bhoir, i/b. M/s.Dahibawkar & Co. for the Appellant in both the Appeals.

Ms.Sheetal Mane Tadke for the Respondent nos. 1 and 2 – M.C.G.M. in both the Appeals.

Mr.Mayur Khandeparkar, a/w. Mr.Asif Shaikh for the Respondent no.3 in both the Appeals.

CORAM : R.D. DHANUKA, J.

DATE : 26th FEBRUARY, 2020

P.C.

By consent of the appellant and the respondents and without prejudice to the rights and contentions of the parties, following order is passed :-

(a) Impugned judgment and decree dated 6th December,2019 passed by the City Civil Court in L.C.Suit No.668 of 2012 in First Appeal (St.) No.3407 of 2020 and in L.C.Suit No.755 of 2012 in First Appeal (St.) No.3410 of 2020 is set aside. The suit restored to file before the City Civil Court of Greater Bombay for

deciding the suit afresh and in accordance with law.

(b) The Trial Court shall decide the matter after considering the pleadings, documents and evidence led by the parties before the Trial Court and without being influenced by the observations made and the conclusion drawn in the impugned judgment and decree dated 6th December,2019. The Trial Court shall make an endeavour to dispose of the said suit within six months from the date of producing authenticated copy of this order.

(c) None of the parties shall seek any unnecessary adjournment before the Trial Court and shall co-operate with each other and with the Trial Court in disposing of the suit expeditiously.

(d) The respondent no.3 would be at liberty to make an application for bringing certain pleadings and documents on record. If any such application is made, the same would be considered by the Trial Court on its own merit.

(e) Similarly if any application for production of additional documents is filed by the plaintiff, such application also shall be decided on its own merit.

(f) Both the First Appeals are allowed on the aforesaid terms.

(g) In view of the disposal of the First Appeals, civil

applications pending, if any, are also disposed of

(h) *Ad-interim* relief granted by this court on 24th February,2020 in both these First Appeals to continue during the pendency of the L.C.Suit No.668 of 2012 in First Appeal (St.) No.3407 of 2020 and in L.C.Suit No.755 of 2012 in First Appeal (St.) No.3410 of 2020 to continue during the pendency of the suit and for a period of two weeks from the date of communication of the decree that would be passed if the same is adverse against the plaintiff.

(i) Both the parties are directed to appear before the learned Trial Court on 4th March,2020 at 11.00 a.m. to enable the learned Judge to fix further dates of hearing.

(j) No order as to costs.

[R.D.DHANUKA, J.]