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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 403 OF 2018
WITH
CIVIL APPLICATION NO. 530 OF 2018

Samina Shabbir Patel

... **Appellant/
Applicant.**

Versus

Assistant Municipal Commissioner,
'B' Ward, Office 121, Mumbai

... **Respondent.**

.....

Mr. Amogh Singh i/b D. P. Singh for the Appellant/Applicant.
Smt. Madhuri More for the Respondent-MCGM.

.....

CORAM : A. S. GADKARI, J.

DATE : 9th JANUARY, 2020

P. C. :

1. In pursuance of Order dated 22nd February 2019 passed by this Court, the Sub-Engineer (B&F), 'B' Ward, Mumbai has filed an affidavit dated 20th November 2019. In para No.5 of the said affidavit, he has categorically stated that, though the notice is issued pertaining to the structure i.e. Building No. 101/103, the appellant is residing in building No. 105, Samuel Street which is not part of the building No. 101/103. As per the report dated 20th July 2019 received from Assistant Engineer (B&F), 'B' Ward, Mumbai, it is clearly mentioned that, the building No. 103/105, Samuel Street are two different buildings with two separate entrances.

2. It is thus clear that, the appellant is not concerned with the suit notice. Learned counsel appearing for the Corporation submitted that the Corporation at this stage is not intending to initiate any action against the structure of the appellant.

3. In view thereof, the impugned Order dated 21st April 2018 passed by the learned Judge, City Civil Court, Greater Mumbai in Notice of Motion No. 1698 of 2014 in L.C. Suit No. 1242 of 2014 is hereby set aside.

4. Appeal is allowed in the aforesaid terms.

5. In view of the allowing of Appeal, Civil Application No.530 of 2018 does not survive and is accordingly disposed off.

(A. S. GADKARI, J.)