

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER (ST.) NO. 1533 OF 2019****WITH****CIVIL APPLICATION (ST.) NO. 1534 OF 2019****IN****APPEAL FROM ORDER (ST.) NO. 1533 OF 2019****WITH****CIVIL APPLICATION (ST) NO. 14944 OF 2019****IN****APPEAL FROM ORDER (ST.) NO. 1533 OF 2019**

K. B. Lal Tenants Association

Through its Secretary

Mr. Niraj Tripathi

... Appellant

V/s.

Municipal Corporation of Greater Mumbai

... Respondent

WITH**INTERIM APPLICATION NO. 1833 OF 2020****IN****APPEAL FROM ORDER (ST.) NO. 1533 OF 2019**

K. B. Lal Industrial Estate

... Applicant.

In the matter between :-

K. B. Lal Tenants Association

Through its Secretary

Mr. Niraj Tripathi

... Appellant

V/s.

Municipal Corporation of Greater Mumbai

... Respondent

Mr. V. Y. Sanglikar i/b. Ms. Vaishali Ugale for Appellant.

Mr. Ajit Kenjale a/w Smt. Madhuri More for Respondent No.1 – MCGM.

CORAM : A.S. GADKARI, J.
DATE : 5th July 2021.
(Through Video Conferencing)

PC. :

The present Appeal is directed against rejection of ad-interim relief in Draft Notice of Motion in L.C. Suit No. 2750 of 2017 by the learned Judge, City Civil Court, Borivali Division, Dindoshi, Mumbai.

By an Order dated 18th December 2019, this Court granted ad-interim relief in favour of Appellant on certain terms and conditions, which have been more specifically mentioned in para no.3 of the said Order.

2. The record clearly indicates that, the said Notice of Motion is still pending for final adjudication. As the Appellant is protected since 18th December 2019 by way of ad-interim relief, it will be appropriate in the interest of justice, to direct the learned Judge, City Civil Court, Borivali Division, Dindoshi, Mumbai, seized of Draft Notice of Motion in L.C. Suit No. 2750 of 2017 to expedite the hearing of the said motion and to make an endeavor to conclude the hearing of the same on or before 5th August 2021.

3. Ad-interim relief, granted by Order dated 18th December 2019 in the present Appeal, to continue till disposal of the said Notice of Motion.

4. It is needless to mention that, the directions issued by this Court in para No.3 of Order dated 18th December 2019, shall remain in force and it is further clarified that, in case of any untoward incidents or calamity which

might occur during the ensuing monsoon, in such an eventuality even if the passers by and/or the persons residing in the adjoining buildings of the suit premises suffers physical injuries or damage to their property, the Appellants shall be held solely responsible for the Civil and Criminal liability thereof.

5. Mr. Kenjale, learned counsel for the MCGM submitted that, the building in question is in dilapidated and precarious condition and as per his instructions, in the ensuing monsoon there is every possibility of its collapse. It is therefore made further clear that, in case, any untoward or unfortunate incident occurs in respect of suit building, the Appellants shall be held solely responsible even for the loss to the life or limb and damage caused to the passers by or to the property of adjoining premises and/or its residents to the suit building.

6. All contentions of both the parties in Draft Notice of Motion are expressly kept open at the time of hearing of the said motion.

7. Appeal is disposed off, in the aforesaid terms.

8. In view of the disposal of Appeal, Civil Application (St.) Nos. 1534 of 2019, 14944 of 2019 and Interim Application No.1833 of 2020 pending therein, do not survive and are accordingly disposed off.

[A.S. GADKARI, J.]