

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1549 OF 2010
IN
CIVIL APPLICATION NO.4168 OF 2018

The Municipal Corporation of
Greater Mumbai .. Applicant

Vs.

Krishnaji Shriniwas & Anr. .. Respondents

ALONG WITH
FIRST APPEAL NO.1558 OF 2010

The Municipal Corporation of
Greater Mumbai .. Applicant

Vs.

Lata Minu Swami & Anr. .. Respondents

ALONG WITH
FIRST APPEAL NO.1561 OF 2010
IN
CIVIL APPLICATION NO.4173 OF 2018

The Municipal Corporation of
Greater Mumbai .. Applicant

Vs.

Mohaddin Mohd. .. Respondent

ALONG WITH
FIRST APPEAL NO.1557 OF 2010

**IN
CIVIL APPLICATION NO.4172 OF 2018**

The Municipal Corporation of
Greater Mumbai .. Applicant

Vs.

Nagnath R. Mahadik & Anr. .. Respondents

**ALONG WITH
FIRST APPEAL NO.1556 OF 2010
IN
CIVIL APPLICATION NO.4171 OF 2018**

The Municipal Corporation of
Greater Mumbai .. Applicant

Vs.

Devika Muthu & Anr. .. Respondents

**ALONG WITH
FIRST APPEAL NO.1550 OF 2010
IN
CIVIL APPLICATION NO.4169 OF 2018**

The Municipal Corporation of
Greater Mumbai .. Applicant

Vs.

C. Changi Raju & Anr. .. Respondents

**ALONG WITH
FIRST APPEAL NO.1554 OF 2010
IN
CIVIL APPLICATION NO.4170 OF 2018**

The Municipal Corporation of
Greater Mumbai

..

Applicant

Vs.

Kartika Arumugam

..

Respondent

**ALONG WITH
INTERIM APPLICATION NO.2238 OF 2020
IN
FIRST APPEAL NO.1562 OF 2010
ALONG WITH
INTERIM APPLICATION NO.2239 OF 2020
IN
FIRST APPEAL NO.1559 OF 2010
ALONG WITH
INTERIM APPLICATION NO.2240 OF 2020
IN
FIRST APPEAL NO.1560 OF 2010
ALONG WITH
INTERIM APPLICATION NO.2241 OF 2020
IN
FIRST APPEAL NO.1547 OF 2010
ALONG WITH
INTERIM APPLICATION NO.2242 OF 2020
IN
FIRST APPEAL NO.1555 OF 2010
ALONG WITH
INTERIM APPLICATION NO.2243 OF 2020
IN
FIRST APPEAL NO.1548 OF 2010
ALONG WITH
INTERIM APPLICATION NO.2244 OF 2020
IN
FIRST APPEAL NO.1553 OF 2010
ALONG WITH
INTERIM APPLICATION NO.2246 OF 2020**

**IN
FIRST APPEAL NO.1552 OF 2010
ALONG WITH
INTERIM APPLICATION NO.2247 OF 2020
IN
FIRST APPEAL NO.1546 OF 2010
ALONG WITH
INTERIM APPLICATION NO.2249 OF 2020
IN
FIRST APPEAL NO.1551 OF 2010**

Lata Minu Swami Through
Constituted Attorney of Rani
(Also known as Malar) .. Applicant

Vs.

The Municipal Corporation of
Greater Mumbai. .. Respondent

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Mr. Bhavin Gada with Mr. Umesh C. i/b Arya Ambre &
Associates for the applicant in Interim Applications.

Mr. Narendra Walawalkar with Ms. Shilpa Redkar for the
respondent-MCGM in all Interim Applications.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 06TH OCTOBER, 2021.

P.C:-

1. The Municipal Corporation of Greater Mumbai has
instituted 17 appeals being aggrieved by the judgment and

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decree dated 23/10/2008 passed by the City Civil Court, Mumbai in distinct suits. The suits were decreed in favour of the original plaintiffs and defendant No.1-Corporation was directed to make available the lands to the plaintiffs on priority basis, on the terms and conditions mentioned at Ex-7. A direction was also issued to the effect that before evicting the plaintiffs from the suit land, which was reserved for a public purpose, a suitable alternate premises shall be provided to them.

2. The appeals filed by the Corporation are admitted in the year 2011 and are pending on the file, for more than a decade. Today, 10 Interim Applications filed in 10 first appeals are listed on the board, by which the applicants seek a relief of bringing the applicants on record in place of respondent No.1, who has expired. The applications pray for a relief that the applicants be substituted in place of respondent No.1 in the proceedings and the appeals be directed to be amended. It appears that the name of respondent No.1 differ from the name appearing in the death certificate and, that is how, the applications were kept pending.

3. However, today, Mr. Walawalkar, learned senior counsel appearing for the Corporation offers a solution and submits that the Corporation has no objection if the applicants are permitted to be impleaded as respondents by substituting respondent No.1 in the appeals. But, this is subject to the risk which the applicants themselves shall undertake. The solution offered is

that if the applicants file separate indemnity bonds indemnifying the Corporation from the consequences of non-identification of the applicants on the basis of the documentary evidence, the impleadment can be allowed.

4. Learned counsel for the applicants agree to the said suggestion and submits that the necessary indemnity bonds shall be filed to this court qua each of the applicants within three days from today. On such bond being filed, the Corporation shall implead the applicants in the appeals by effecting necessary amendment, within a period of one week thereafter.

5. All Interim Applications are made absolute in the above terms.

6. As far as the first appeals are concerned, they are awaiting adjudication since a decade. The parties are at consensus that the appeals deserve to be heard finally. Learned senior counsel submits that the Corporation is aggrieved by the judgment which casts a responsibility on the Corporation to rehabilitate the plaintiffs, whereas the land in which the hutments of the plaintiffs are located were acquired by MMRDA. The responsibility, according to learned senior counsel, ought to have cast on the MMRDA. Since the MMRDA is a party, it shall be served a notice for final hearing, intimating that the appeals will be taken up for final hearing on 24/11/2021.

7. Call for R. & P. The Corporation is also permitted to place on record a private paper-book after furnishing a copy of the same to the other side.

8. List the appeals for final hearing, peremptorily on 24/11/2021 at 2.30 p.m.

[SMT. BHARATI DANGRE, J.]