

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO. 474 OF 2021****WITH****I.A. NO. 3633 OF 2021**

Shree Bidada Sarvodaya Trust Bombay & Ors.

.....Appellants/
Applicants.

Vs.

The Municipal Corporation

.....Respondent.

Mr. R.M. Haridas a/w Adv. Neel Gala with Adv. Tushar Nagvekar for the
Appellants/Applicants.

Ms. Madhuri More for the Respondent-MCGM.

CORAM : A. S. GADKARI, J.

DATE : 1st DECEMBER, 2021.

PC:-

Record indicates that, while passing speaking Order dated 24th October, 2019, the Competent Authority of Respondent No.1-Corporation has held that, the Appellants have proved the authenticity of the pump room mentioned in the notice schedule but have not proved the authenticity of 1 meter extended portion of brick masonry wall admeasuring 3.3 meter (ht). approximately and temporary reception counter or security counter obstructing the common pathway between two buildings of MARU Hospital mentioned in the cause title of the Appeal.

2 It *prima facie* appears from the perusal of the notice dated 22nd August, 2019 (page 103) that, the said common pathway is between the two buildings of Appellants' Trust Hospital and there is no other thoroughfare by any other person than the staff or patients of the Appellant hospital.

 In view of thereof, during the pendency of Notice of Motion No.4603 of 2019 in LC Suit No.895 of 2020 filed by the Appellants, the Respondent No.1-Corporation is directed not to take coercive steps in furtherance of Speaking Order dated 24th October, 2019 passed by it.

3 It is made clear that, aforesaid finding is *prima facie* in nature and the Trial Court at the time of deciding the Notice of Motion No.14603 of 2019 shall not get influenced by it and will hear and decide the said Notice of Motion on its own merits.

 Appeal is party allowed in the aforesaid terms.

4 In view of disposal of the Appeal from Order itself, Interim Application No. 3633 of 2021 does not survive and is also disposed off.

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

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