

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER (ST.) NO. 26861 OF 2019****WITH****INTERIM APPLICATION NO. 1252 OF 2019**

Surendra Alias Suresh J. Patel

... Appellant

V/s.

The Assistant Commissioner & Ors.

... Respondents

Mr.Ashish Kamat a/w. Harsh Moorjani, Mr.Ashwin Shete and Ms.Divya Tyagi
i/b. Jayakar & Partners for Appellant.

Mrs.Madhuri More for Respondent-Corporation.

Mr.R.A. Thorat, Senior Advocate a/w. Mr.Arun Panickar for Respondent No.6.

CORAM : A.S. GADKARI, J.**DATE : 15th July 2021.****(Through Video Conferencing)****PC. :**

1. Heard.

2. The record indicates that, the Appellant/Plaintiff (tenant) has preferred the present Appeal against an interlocutory Order dated 1st October 2019 passed in Draft Notice of Motion in Long Cause Suit No. 2390 of 2019. By the impugned Order, the Trial Court had refused to grant ad-interim relief in favour of the Appellant/Plaintiff.

The record further indicates that, by an Order dated 9th October 2019, this Court had granted interim relief in favour of the Appellant. The

interim relief granted by Order dated 9th October 2019 was thereafter continued from time to time and subsequently by an Order dated 8th July 2021, it was modified to the extent of placing responsibility on the Appellant for any untoward incident or calamity which might occur during the interregnum.

3. Learned counsel appearing for the Appellant on instructions submitted that, the said Draft Notice of Motion has now been numbered as 'Notice of Motion No.3317 of 2019'. In view thereof, it will be appropriate in the interest of justice to direct the learned Ad-hoc Judge, City Civil Court, Dindoshi, Borivali Division, Mumbai, seized of the said Notice of Motion to expedite the hearing of the same and to dispose it off within a period of three months from the date of receipt of the present Order.

4. The interim relief granted by this Court by its Order dated 9th October 2019 and 8th July 2021 to remain in force till disposal of the said Motion. The Clause No.3 of Order dated 8th July 2021 is further clarified to the extent that, in case of any such untoward incident or calamity if occurs during the interregnum, the Respondent No.1-Corporation and/or its Officers shall not be held responsible for the same for the Civil and Criminal Liability arising therefrom.

5. Appeal is disposed off in above terms.

6. In view of disposal of Appeal, Interim Application No.1252 of 2019 pending therein does not survive and is accordingly disposed off.

7. It is needless to mention that, the contentions of all the parties herein are expressly kept open, to be raised at the time of hearing of the said Notice of Motion.

8. All the concerned to act on the basis of the authenticated copy of this Order.

[A.S. GADKARI, J.]