

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER No. 827 OF 2019
WITH
CIVIL APPLICATION No.983 OF 2019
IN
APPEAL FROM ORDER No.827 OF 2019**VAISHALI
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Date:
2022.04.20
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+0530**Mr. Mithun Chakraborty and Anr.****...Appellants/
Applicants****Vs.****The Municipal Corporation of
Greater Mumbai****...Respondent***** * * *****Mr. Amogh Singh i/b. D.P. Singh for Appellants/
Applicants****Mr. R.Y. Sirsikar, for Respondent/MCGM.****Coram : Sandeep K. Shinde, J.****Dated: 12th APRIL, 2022.****P.C. :**

1. In suit, instituted by the Appellants/ Plaintiffs , trial court vide order dated 17th January, 2018 in notice of motion No. 1785/2011 in L.C. Suit No. 1418/2011, declined to restrain Corporation and its officers from pulling down the suit structure. That order is challenged in this appeal from order. Pending appeal, this Court on 25th January, 2018 protected suit structure from demolition. Since then, protection order is in force. Pending

appeal, trial in Long Cause Suit No. 1418 of 2011 has commenced. The suit in question was filed in 2011 and since then the suit/notice structure, has been protected through out till date. In consideration of this fact, I am not inclined to interfere with the impugned order, after ten years. As an alternative, it would be expedient, if trial court concludes the suit expeditiously and preferably before 31st March, 2023. In that view of the matter, Trial Court shall decide the suit on its own merits without being influenced by the impugned order or order of this Court granting protection to the suit structure, from demolition.

2. Appeal is disposed of in the aforesaid terms including all applications therein.

(Sandeep K. Shinde, J.)