

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1415 OF 2015
IN
FIRST APPEAL NO. 418 OF 2015**

Kantabai Kanhu Phadtare

**...Applicant
(Orig. Plaintiff)**

V/s.
Mumbai Municipal Corporation
and anr.

**... Respondents
(Orig. Defendants)**

...

Mr. Sagar A. Rane, Advocate for the applicant.

Mr. Ravindra Sirsikar, Advocate for respondent no.1-
M.C.G.M.

Mrs. P.N. Dabholkar, AGP for State-respondent no.2.

CORAM : SANDEEP K. SHINDE J.

DATE : THURSDAY, 28TH APRIL, 2022.

P.C.:

1. Pending Appeal, vide order dated 8th April, 2015 parties were directed to maintain status-quo, that was prevailing as on that date. Later, on 3rd September, 2019

Appeal was dismissed in default for non-prosecution; whereafter on 29th March, 2022 Appeal was restored to the file. However, the interim relief was not restored. For that reason, appellant has moved this application, seeking restoration of interim relief.

2. Heard Counsel for the parties. Herein, challenge to the notice issued under Section 351 of the Mumbai Municipal Corporation Act (“Act” for short), was rejected by the trial Court. However, pending suit, vide order dated 25th July, 2011 the execution of notice under Section 351 of Act, was stayed. Pending Appeal, that order was continued. Admittedly, after dismissal of Appeal in default on 3rd September, 2019, till date, the Corporation has not taken coercive action. In that view of the matter, pending appeal, there shall be interim relief in terms of prayer clause (b) of the Civil Application. Civil Application is disposed of.

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(SANDEEP K. SHINDE, J.)