

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Appeal from Order (A.O.) No. 721 / 2017

Alongwith

Civil Application (CAA) No. 966 / 2017

in

Appeal from Order (A.O.) No. 721 / 2017

Mr. Sunder Korga Shetty

... Appellant

Versus

**The Municipal Corporation of Greater
Mumbai and Anr.**

... Respondents

**Mr. Pradeep Thorat a/w Ms. Aditi Naikare i/by Mr. Pramod Gautam,
Advocate for the Appellant.**

Mrs. Madhuri More, Advocate for the MCGM/ Respondent No.1.

CORAM : SANDEEP K. SHINDE, J.

DATE : 5th JANUARY, 2022.

[Through Video Conference]

P.C.

**Heard. Mr. Thorat, learned Counsel for the Appellant and Mrs.
More, learned Counsel for the Corporation.**

**1. This appeal is directed against the order dated 5th April, 2017 in
draft notice of motion in L.C. Suit No. 959/2017 passed by the**

learned Ad-hoc Judge, City Civil Court, Borivali Division, Dindoshi, by which the ad-interim relief was refused to the Appellant-Plaintiff. Plaintiff has questioned the legality of notice issued under Section 351 of the Mumbai Municipal Corporation Act (MMC Act) and order of the 'designated officer'. Although, the learned Judge declined the ad-interim relief, 'status-quo' qua suit premises was directed to be maintained to enable the Plaintiff to prefer an appeal. Pending appeal, order to maintain 'status-quo' has been continued by this Court from time to time and it is in-force as on date.

2. In consideration of the facts of the case and in particular that appeal has been preferred against order, refusing ad-interim relief and notice of motion has not been heard, in my view, it would be expedite in the interest of justice to relegate the parties to the trial Court and request the learned Judge to hear the notice of motion, expeditiously and preferably within six months from today. In that view of the matter, the parties shall appear before the learned trial Court on 23rd February, 2022 and place a copy of this order before the learned Court.

3. The learned trial Judge shall make an endeavor to dispose of the notice of motion in the L.C. Suit No. 959/2017 within six months from 23rd February, 2022. Needless to say until then, order directing the parties to maintain status-quo qua suit premises shall continue to operate.

4. Appeal is disposed of alongwith Civil Application in the aforesaid terms.

(SANDEEP K. SHINDE, J.)

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