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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3656 OF 2021
IN
FIRST APPEAL NO. 541 OF 2021

Municipal Corporation of Greater Mumbai ...Applicant
through its Municipal Commissioner, Mumbai
Versus
S N Desai Hospitalities and Developers LLP & ...Respondents
Anr

Mr Girish Godbole, *with Santosh Parad, Shirsekar & Om
Suryavanshi, i/b Sunil Sonawane, for the Applicant-MCGM.*
Mr CM Korde, Senior Counsel, *with Rohaan Cama, Pheroze
Mehta, MS Federal, Rashne Mulla-Feroze & Shrinivasan
Mudaliar, i/b Federal & Co, for Respondent No.1.*

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**CORAM G.S. Patel &
Madhav J. Jamdar, JJ.**
DATED: 7th January 2022

PC:-

1. This is an Application by the MCGM, the Appellant in First Appeal No. 541 of 2021. The Application is, first, for permission to lead additional evidence and file additional documents. These additional documents are specified in prayer clause (a) at page 11. The second prayer is for leave to urge additional grounds in the memo of Appeal and which are not or could not be raised before the

Competent Authority in Nagpur. Mr Godbole clarifies that there is no proposal to lead oral evidence.

2. Mr Korde, learned Senior Counsel for the Respondents, fairly states that he has no objection to the additional documents being permitted. This is subject to his right to contest the submissions of the Appellants as to the probative value and relevance of the additional documentary evidence sought to be introduced by the Applicant.

3. Similarly, Mr Korde has no objection to additional grounds being raised, subject to his rights to deal with those grounds in this Appeal at the final hearing.

4. We have already commenced the hearing of the Appeal. We have heard both sides on a preliminary issue of jurisdiction and have now proceeded to hear the rival arguments on the merits of the appeals.

5. We allow the Application subject to the rights of the Respondents as stated above.

6. We clarify that Mr Korde's clients will not be held to have accepted the relevance or probative value of the documents merely because his clients have agreed to these being allowed to be introduced by the MCGM in appeal.

7. The documents in question are unfortunately not annexed to the Interim Application itself. Mr Korde states that there is an Affidavit in Reply. We do not find it on record. For completeness, the additional documents are to be compiled separately.

8. The additional grounds are set out in paragraph (A) to (C) of paragraph 5 of the present IA and will be read as such. They are also replicated in memo of Appeal in grounds (SSS) to (UUU).

9. The IA is disposed of for these terms.

10. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)