

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 338 OF 2017
WITH
CIVIL APPLICATION NO. 431 OF 2017

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NITIN
CHAVAN

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Vijay Mahadev Jadhav and Ors. ..Appellants

V/s.
The Municipal Corporation of
Greater Mumbai ..Respondent

Ms. Sukeshi Bhandari a/w Akshay Chauhan for the Appellant.
Mr. R. Y. Sirsikar for Respondent No.1/MCGM.
Mr. Mayur Khandeparkar i/b Jeet Gandhi for Respondent No.2.
Mr. Sandesh Patil for Respondent/SRA.

CORAM : C.V. BHADANG, J.

DATE : 25 JULY 2022

P.C.

1. The challenge in this appeal at the instance of the Appellants-original Plaintiffs is to the order dated 27.04.2017 passed by the City Civil Court at Dindoshi, thereby rejecting a prayer for ad-interim relief, restraining the Respondent Corporation, from demolishing the subject structures occupied by the Appellants.

2. I have heard the learned counsel for the parties.

3. It is submitted by the learned counsel for the Appellants that the Appellants are held to be eligible as per Annexure-II under the Slum Rehabilitation Scheme. She submits that as per the report of private Architect engaged by the Appellants, the subject buildings can be repaired and need not be demolished. She, however, in all fairness did not dispute that the report of the Technical Advisory Committee (TAC) shows that the buildings are in dilapidated condition and are required to be demolished.

4. The learned counsel for Respondent No.2 states that all the Appellants/Plaintiffs are not held to be eligible and atleast 4 of them are held to be not eligible. He, however, submits that Respondent No.2 is ready to pay the rent to the eligible occupants, if they are prepared to vacate the subject buildings and handover possession. He, however, submits that he can not commit himself to any timeline as there are as many as 8 buildings/chawls for redevelopment and the timeline depends on the vacation and demolition of all the structures.

5. I have considered the submissions made. I find that ad-interim relief has been refused way back in the year 2017 and the application for temporary injunction is still pending before the City Civil Court.

6. The record of this appeal shows that initially ad-interim relief was granted on condition of the Appellants furnishing an

undertaking that they will be occupying the structures on their own risk. However, that order has not been extended after 12.07.2017. It can thus be seen that there is not even an interim order operating for a period of 5 years now. In such circumstances, I find it appropriate to direct the expeditious hearing and disposal of the Notice of Motion pending before the City Civil Court at Dindoshi. It would be open to the parties to agree to the terms as suggested on behalf of Respondent No.2, if they are acceptable and to file the Consent Terms before the City Civil Court, if so advised.

7. Subject to this, the appeal is disposed of. Pending Civil Application, if any, is also disposed of.

8. The City Civil Court shall decide the Notice of Motion No. 1012 of 2017 as expeditiously as possible and preferably within a period of eight weeks from the receipt hereof.

9. The learned counsel for the Appellants states that the Appellants shall file an undertaking/s before the City Civil Court within two weeks from today that they are staying in the subject tenements/buildings on their own risk.

10. In such circumstances, there shall be no order as to costs.

(C.V. BHADANG, J.)