

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.823 OF 2019
A/W
CIVIL APPLICATION NO.977 OF 2019
IN
APPEAL FROM ORDER NO.823 OF 2019**

Himanshu J. Kamdar	]	Appellant
Vs.		
The Municipal Corporation of Greater	]	
Bombay and another.	]	Respondents

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Mr. Sanket Mungale, for Appellant.

Mr. R. Y. Sirsikar, for Respondents - M.C.G.M.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 1st JULY, 2022.**P.C.**

1. Liberty is granted to the learned Counsel for respondents - MCGM to file affidavit-in-reply in the Registry.
2. Notice of Motion No.2015 of 2018 came to be dismissed by the City Civil Court on 16th April, 2019 against which the appellant has filed Appeal from Order.
3. This Court by an order dated 5th April, 2022, *prima facie*, observed that a map relied upon by the appellant which was ostensibly drawn after the survey conducted in 1914 indicates existence of the suit canopy in Plot No.1291.

4. It is informed to this Court that the suit is for some compliance.

5. Today, Mr. Sirsikar though has been permitted to file affidavit-in-reply, no fruitful purpose would be served by adjourning the appeal, keeping the main suit pending before the trial Court. The issue as to whether the said shop has been in existence since 1914 can be answered only after a full-fledged trial.

6. In view of the above, Appeal from Order can be disposed of in following terms;

(a) Parties shall appear before the City Civil Court on 14th July, 2022;

(b) Trial Court is directed to frame issues within one week from receipt of this order;

(c) Parties shall adduce evidence before the trial Court;

(d) The trial Court, thereafter, shall expeditiously decide and dispose of the suit within eight weeks;

(e) Trial Court shall not grant unnecessary adjournments to the parties;

(f) Interim relief granted in favour of the appellant will continue to operate till disposal of the suit.

7. Appeal stands disposed of in the aforesaid terms.
8. Consequently, pending Civil Application stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]