

S.S.Kilaje

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

**APPEAL FROM ORDER NO. 716 OF 2019
WITH
CIVIL APPLICATION NO. 853 OF 2019
IN
APPEAL FROM ORDER NO. 716 OF 2019**

Municipal Corporation of Greater Mumbai .. Appellant
Versus
Ashok Nandu Shetty .. Respondent

-
• Mr. Om Suryawanshi for MCGM
.....

CORAM : MILIND N. JADHAV, J.
DATE : JULY 19, 2022

P.C.:

1. This Appeal from Order has been filed to challenge the order dated 07.07.2015 passed by the Bombay City Civil Court at Bombay in Notice of Motion No. 217 of 2011 filed in L.C.Suit No. 237 of 2011 instituted by the plaintiff (respondent herein). The order dated 07.07.2015 clearly records *prima facie* findings that the noticee's structure which has been proceeded against with by the Corporation has been in existence since 15.08.1997. The learned trial court has relied upon the Assessment extract of the disputed structure produced by the respondent herein (plaintiff in the suit) to conclude that the disputed structure has been in existence since 1994.

2. Mr. Suryawanshi after taking instructions has submitted that the suit before the trial court has been proceeded with and at present recording of evidence of the parties is in progress.

3. In view of the cogent reasons given in the impugned order dated 07.07.2015, I find no reason to interfere with the said order. The Appeal from Order stands dismissed. No costs.

4. Mr. Suryawanshi submits that the suit pending in the trial court has been filed as far back as in 2011 and hence seeks direction for expedition of the same. This request of Mr.Suryawanshi certainly needs to be granted. The learned trial court is directed to dispose of the pending L.C.Suit No. 237 of 2011 on the record and file of the trial court within a period of 6 months from today. Mr. Suryawanshi submits that the Corporation shall co-operate and not seek unnecessary adjournment before the trial court.

5. Appeal from Order No. 716 of 2019 stands disposed of. Civil Application No. 853 of 2019 also stands disposed of.

[MILIND N. JADHAV, J.]

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH KILAJE
Date:
2022.07.20
14:41:04 +0530