

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 340 OF 2021
ALONGWITH
INTERIM APPLICATION NO. 2975 OF 2021

VIJAY B. KHETAN

} APPELLANT

V/S.

THE MUNICIPAL CORPORATION
OF GREATER MUMBAI
AND ANR.

} RESPONDENTS

* * * *

Mr. Vishal Kanade a/w. Mr. Kartik Tiwari i/by.
Lakshyavedhi Legal, Advocate for the appellant.

Mr. Ravindra Sirsikar, Advocate for M.C.G.M.

Coram : Sandeep K. Shinde, J.
(through Video Conference).

Friday, 4th February, 2022.

P.C. :

1) Heard Mr. Kanade, learned Counsel for the
appellant and Mr. Sirsikar, learned Counsel for the
Corporation.

2) Plaintiff is occupant and tenant of Shop No.11, Ground Floor, Zaveri Bhuvan, Nariman Road, Vile Parle (East), Mumbai-400 057 (“suit property” for short). On 12th April 2021, Municipal Corporation, issued notice to owner/occupier of Zaveri Bhuvan, calling upon him/them to vacate the building immediately, since building was classified in the “C-1” category. Plaintiff’s contention is that, suit property, is distinct and independent structure, and not a part of Zaveri Bhuvan, in respect of which Notice was issued by the Corporation on 12th April, 2021. Plaintiff therefore brought the suit, seeking decree, to restrain the Corporation from demolishing suit property. The relief was declined by the trial Court. Thus, this Appeal under Order 41 Rule 1(r) read with Section 104 of the Code of Civil Procedure.

3) Mr. Sirsikar, learned Counsel for the Corporation, on instructions, would submit that, suit property in possession of the plaintiff, is distinct and separate of Zaveri Building, in respect of which, on 12th April 2021, notice was issued by the Corporation. The statement is accepted. In consideration of these facts, the

Corporation is restrained from demolishing Shop No.11, Ground Floor, Nariman Road, Vile Parle (East), without following due process of law. In the result, Appeal is allowed.

4) Admittedly, in view of the notice issued by the Corporation, the electricity supply was disconnected, Plaintiff seeks restoration of the connection. In consideration of the facts stated above, the Corporation shall take appropriate steps to ensure the electricity is restored to suit premises, at the earliest.

5) The Appeal is allowed in the aforesaid terms and disposed of.

6) With disposal of the Appeal, Interim Application No. 2975/2021 does not survive and becomes infructuous. The same is accordingly disposed of.

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(Sandeep K. Shinde, J.)