

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

VAISHALI
ANIL
TIKAM

**APPEAL FROM ORDER No. 538 OF 2019
WITH
CIVIL APPLICATION No. 619 OF 2019
IN
APPEAL FROM ORDER No. 538 OF 2019**

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Gold Plaza Developers

**...Appellant/
Applicant**

Vs.

**The Municipal Corporation of
Greater Mumbai**

...Respondent

*** * * ***

**Mr. Kunal Bhanage a/w. Mr. Aakash Pawar for
Appellant**

Mr. R.Y. Sirsikar for Respondent -MCGM

Coram : Sandeep K. Shinde, J.

Dated: 29th APRIL, 2022.

P.C. :

1. Although at the interlocutory stage, learned Trial Court had refused to stay effect of notice issued under Section 354-A of the Mumbai Municipal Corporation Act, yet, notice structure was protected to enable the Appellant to approach the High Court. This Court vide order dated 17th December, 2015, extended the protection, that was granted by the Trial Court. In

that view of the matter, the suit structure is protected since more than seven years. By the time, the trial has commenced and the cross examination of the plaintiffs is underway. It is evident from Roznama dated 23rd September, 2021. Copy of which, is taken on record and marked 'X-1' for identification.

2. In that view of the matter, although I am not interfering in the impugned order and dismissing the Appeal, yet, since the trial in the suit has commenced, it would be expedient to protect the suit construction, till the suit is disposed of, or else, if that protection is not extended, the suit would be rendered infructuous. The Trial Court shall conclude the trial in the L.C. Suit No. 116/2012, expeditiously and preferably before 30th December, 2022 on its own merits and without being influenced by the impugned order and/or order passed by this Court. Appeal is disposed of in the aforesaid terms, including all applications therein.

(Sandeep K. Shinde, J.)