

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO.260 OF 2012
IN
NOTICE OF MOTION NO.329 OF 2010
IN
SUIT NO.251 OF 2010
WITH
NOTICE OF MOTION NO.1206 OF 2012**

Bharat J. Patel and Ors.

... Appellants

Versus

Urmila Ramsagar R. Pathak and Ors.

... Respondents

Ms. Pratima Soundalkar with Ms. Priyanka Rathi, Mr. Nirav Marjadi, Mr. Ameet Mehta, for Appellants.

Ms. Pooja Yadav, for MCGM.

None for Respondent No.4.

Ms. Apeksha Khetan i/by IC Legal, for Respondent No.7.

Mr. Viraj Maniar with Ms. Sneha Patil i/by Maniar Srivastava Associates, for Defendant No.14.

Mr. Ajay Dedhia, Prop. Of Asmi Corporation, present.

**CORAM: S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.**

**DATE: 3rd FEBRUARY, 2022
(THROUGH VIDEO CONFERENCING)**

P.C.:

1. On 31st January, 2022 we received a Praecipe from the Advocate for Respondent No.4 interalia stating that the Appellants in collusion with other Respondents have started demolition of the structure standing on the land which is the subject matter of the present Appeal. In view thereof, the above Appeal was directed to be placed on yesterday's board i.e. 2nd February, 2022. However, when the matter was called out, none appeared for Respondent No.4. Thereupon, the Court

Associate contacted M/s. MVK Juris, Advocates for Respondent No.4, over the phone and informed them that their matter is called out and a pass over is granted since none appeared for Respondent No.4. It was only thereafter, that Advocate Nafzim Saffi i/by MKV Juris appeared on behalf of Respondent No.4 and informed the Court that his senior is travelling and he has asked him (Adv. Saffi) “to co-ordinate with us” (the Judges). When this Court reprimanded him in regard to his manner of address, Advocate Saffi requested that the matter be kept back upto 2.30 p.m., to enable his senior to appear in Court. At 2.00 p.m., the senior of Advocate Saffi was not present and at the request of Advocate Saffi, the matter was adjourned to today.

2. Today none appear for Respondent No.4.

3. The learned Advocate for the Appellants have informed us that the Plaintiffs and Defendants in the Suit have entered into Consent Terms dated 27th April, 2021 and by an order dated 30th April, 2021 passed by S.C.Gupte, J. (as he then was). the above Suit i.e. Suit No.251 of 2010 is itself disposed of in terms of the Consent Terms dated 27th April, 2021. The learned Advocate for the Appellants states they being the original Plaintiffs to the Suit, are desirous of withdrawing the above Appeal since the same has become infructuous. In view thereof, the Appeal is disposed of as withdrawn. Notice of Motion No.1206 of 2012 also stands disposed of.

(MILIND N. JADHAV, J.)

(S.J.KATHAWALLA, J.)