

Vidya Amin

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

**APPEAL FROM ORDER NO. 79 OF 2016
WITH
CIVIL APPLICATION NO. 101 OF 2016**

Mohd. Shakeel Khamker @ Pathan ... Appellant

Versus

The Municipal Corporation of Greater Mumbai ... Respondents
& Anr.

Mr. H.S. Kadam i/b. Mr. Sanjiv A. Sawant for the appellant.

Mr. R.Y. Sirsikar for the respondent/MCGM.

**CORAM: G. S. KULKARNI, J.
DATED: 4 January 2023**

P.C.

1. Heard learned counsel for the appellant.
2. This Appeal from Order was filed against an order dated 18 January, 2016 passed by the learned Judge of the City Civil Court, Dindoshi, Borivali Division on a draft Notice of Motion in L.C. Suit No. 130 of 2016. By the impugned order, ad-interim relief on the Notice of Motion has been rejected. It, however, appears that while rejecting the ad-interim relief, there was an ad-interim protection which was granted in favour of the appellant for sometime and the same has been continued by order dated 1 February, 2016 passed by this Court.

3. In these circumstances, in my opinion, it would be appropriate that the Notice of Motion which is pending and if not finally disposed of, be taken up for hearing as expeditiously as possible. The interim protection as granted by this Court in terms of the order dated 1 February, 2016 shall continue to operate till the decision on the Notice of Motion, unless the same is not already decided.

4. It is, however, clarified that in the event the Notice of Motion is decided and disposed of, the said protection shall not be available to the appellant.

5. All contentions of the parties on the pending suit and any interim proceedings thereon are expressly kept open.

6. Disposed of in the aforesaid terms.

7. In view of disposal of Appeal from Order, Civil Application does not survive and the same is accordingly disposed of.

8. No costs.

G. S. KULKARNI, J