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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 532 OF 2016
WITH
CIVIL APPLICATION NO. 680 OF 2016

Municipal Corporation of Greater Mumbai ... Appellants
and Ors.

Versus

Mr. Mahendra Kumar Basudeo Jhanjhararia ...Respondent

Mr. R. Y. Sirsikar, for Appellants.

Ms. Vrushali U. Kabare, for Respondent.

CORAM: G. S. KULKARNI, J.
DATED: JANUARY 04, 2023

PC.

1. This appeal from order is directed against an order dated 7 April 2016 passed by the City Civil Court, Bombay. However, the reasoned order passed by the learned trial Judge has not been placed on record. It is almost eight years that the same has not been placed on record.

2. Be that as it may, when this appeal was taken up for hearing, on 13 April 2016 a co-ordinate Bench of this Court has passed the following order:-

“ Not on board. Taken up on production board by way of praecipe.

2. The reasoned copy of the order is not yet available. The learned Counsel for the Respondent who appeared in the proceedings before the Trial Court states that the learned City Civil Court Judge has given four weeks time to the Municipal Corporation to reconstruct the structure, failing which the Respondent is permitted to reconstruct the same.

3. In view of this position, since the order is passed on 6

April 2016 and the four weeks period is not yet elapsed, it is not necessary to pass any interim order at present. Place the Appeal on board on 21 April 2016.”

3. Learned Counsel for the respondent – plaintiff would submit that the municipal corporation was granted four weeks time to restore the structure of the respondent – plaintiff, however, within that period of four weeks the same was not restored, and accordingly, the respondent – plaintiff had taken steps to restore the premises. Thus, according to the respondent-plaintiff, the appeal itself has become infructuous.

4. In the above circumstances, as the impugned order itself is not placed on record by the Corporation for almost eight years, it clearly shows that the appellants are not interested to prosecute the appeal. The appeal is thus not required to be carried forward any further and be dismissed.

5. The appeal is accordingly dismissed. All the contentions of the parties are kept open to be agitated in the pending suit.

6. Disposed of. No costs.

(G. S. KULKARNI, J)