

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

APPEAL FROM ORDER NO.489 OF 2023

Safique Ahmed Foufee Choudhary ...Appellant

The Municipal Corporation of Greater
Mumbai ...Respondent

**WITH
INTERIM APPLICATION NO. 12959 OF 2023**

Mr. Bholaprasad Shukla, for the Appellant.
Ms. Smita Tondwalkar, for the MCGM/Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 28th JUNE, 2023

PC:-

1. Heard the learned Counsel for the appellant.
2. Mr. Shukla, the learned Counsel for the appellant, seeks leave to withdraw the appeal as well as LC Suit No.1656 of 2017 with liberty to assail the order passed by the competent authority by preferring an appeal before the Appellate Authority under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.
3. The learned Counsel for the appellant submits that since the interim protection is in operation, the same may be continued for a reasonable period to facilitate the appellant – plaintiff to approach the Appellate Authority.

4. As the learned Judge, City Civil Court, has recorded a finding that the jurisdiction of the Civil Court is *prima facie* barred under Section 42 of the Act, 1971 and that the plaintiff has an efficacious remedy of an appeal under the Act, 1971, it may be expedient to allow the appellant to withdraw the appeal as well as LC Suit No.1656 of 2017 with liberty to assail the legality and validity of the orders passed by the Competent Authority under the Act, 1971 before the Appellate Authority under the said Act.

Let such appeal be filed within a period of four weeks from today.

5. The time spent by the plaintiff – appellant in prosecuting Suit No.1656 of 2017 shall be accounted for under Section 14 of the Limitation Act.

6. Ad-interim protection, granted by the trial court, shall continue to operate for a period of eight weeks from today.

[N. J. JAMADAR, J.]