

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.695 OF 2019
WITH
CIVIL APPLICATION NO.828 OF 2019
IN
APPEAL FROM ORDER NO.695 OF 2019

M/s. Pawani & Co.Appellant/Applicant
V/S
Municipal Corporation of
Greater MumbaiRespondent

...

Mr. Ashok M. Saraogi for the Appellant/Applicant.
Ms. Smita Tondwalkar for Respondent-MCGM.

...

CORAM: SANDEEP V. MARNE, J.
DATE : OCTOBER 27, 2023.

P.C.:

1 The challenge in the present Appeal is to the order dated 30 June 2018 passed by the City Civil Court rejecting Draft Notice of Motion tendered by the Plaintiff seeking temporary injunction to restrain the Municipal Corporation from acting on the notice dated 20 February 2018 issued under the provisions of section 351 of the Mumbai Municipal Corporations Act, 1888.

2 This Court has granted an order of status quo in the present Appeal on 4 July 2018 which order continues to operate till date.

3 I have heard Mr. Saraogi, the learned Counsel appearing for the Appellant and Ms. Tondwalkar, the learned Counsel appearing for Respondent-Municipal Corporation.

4 Considering the submissions canvassed by the learned counsels appearing for the parties, it appears that arguable questions are raised in the Appeal. Mr. Saraogi has placed reliance on the repair permission issued in respect of the suit structure. However, the City Civil Court has refused to believe that the said document is the repair permission. Be that as it may, it appears that the trial of the suit has commenced. Mr. Saraogi would submit that the Plaintiff has already filed his evidence. In that view of the matter and considering the fact that the interim order of *status quo* is in operation for the last more than five years, it would be appropriate to request the City Civil Court to take up the suit for decision rather than determining the correctness of the impugned order at this stage.

5 Accordingly, the Appeal is disposed of with a request to the City Civil Court to expedite the hearing of the L.C. Suit No.1445 of 2018 and to make an endeavour to decide the same as expeditiously as possible preferably within a period of 18 months from today. Till the decision of the suit, *status quo* order passed by this Court on 4 July 2018 to continue to operate.

6 With the above directions, the Appeal is disposed of.

7 In view of the disposal of the Appeal from Order, the Civil Application also accordingly disposed of.

(SANDEEP V. MARNE, J.)