

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 419 OF 2021

with

INTERIM APPLICATION NO.3256 OF 2021

Surendra Alias Suresh J. Patel (Dead) ... Appellant
through Lrs.

Versus

The Assistant Commissioner & Ors. ... Respondents

Mr. Ashwin Shete with Ms. Shanvi Punamiya i/b. Jayakar & Partners, for
the Appellant.

Ms. Smita Tondwalkar, for Respondent-MCGM.

Mr. Mayur Khandeparkar and Mr. Arun Panickar with Mr. Mangesh Sawant,
for Respondent No.6.

CORAM: G. S. KULKARNI, J.

DATED: FEBRUARY 09, 2023

PC.

1. Not on board. Upon mentioning taken on board on a praecipe as moved on behalf of Respondent no.6.
2. Heard learned Counsel for the appellant, learned Counsel for the respondent – corporation and learned Counsel for respondent No.6.
3. Learned Counsel for the appellant informs the Court that now the Structural Engineer of the appellant has certified the question building as dilapidated structure. His contention is that the appellant would

require some time to remove his belongings so that further action of demolition can be taken. He states that time of two weeks be granted so that the belongings can be removed.

4. Mr.Khandeparkar, learned Counsel for respondent No.6 would not have any objection. Accordingly, let the belongings be permitted to be removed by the appellant within two weeks from today. After the belongings are removed, the respondents are permitted to take appropriate action as may be permissible in law, however, keeping open all contentions of the appellant, if any, otherwise than in the suit in question.

5. In view of the stand taken by the appellant, the appeal from order would not warrant any further adjudication. It is accordingly, disposed of in terms of the statement as made on behalf of the appellant. No costs.

6. Learned Counsel for the parties would also agree that the suit itself has become infructuous in view of the above arrangement. Accordingly, L.C.Suit No.2390 of 2019 as filed by the appellant/plaintiff also stands disposed of.

7. A copy of this order be forwarded by the Registry to the Registrar of the City Civil Court, Bombay, for its record that L.C. Suit No.2390 of 2019 stands disposed of.

8. In view of the above arrangement, the fresh notice dated 30 January 2023 issued by the Municipal Corporation under Section 354 of the Mumbai Municipal Corporation Act, be not acted upon for a period of two weeks.

9. Disposed of. No costs.

10. In view of disposal of appeal, pending interim application would not survive, the same is disposed of.

(G. S. KULKARNI, J)