

VRJ

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

**INTERIM APPLICATION NO.19767 OF 2022
IN
FIRST APPEAL NO.1451 OF 2012**

The Bombay Municipal Corporation Mumbai	... Applicant
In the matter between	
Shivkali Baijnath Bind & Ors.	... Appellants
V/s.	
The Bombay Municipal Corporation Mumbai & Ors.	... Respondents

Mr. Abhishekh Khare with Mr. Santosh Parad for the applicant in I.A. & for respondent No.1/MCGM In F.A.

Mr. Nilesh Pandey for the appellants.

Mr. S. M. Sabrad with Mr. G.S. Bhat for the respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : MARCH 1, 2023

P.C.:

1. The respondent No.1/corporation has filed this application seeking clarification of order dated 10th March 2014, in an appeal arises out of notice under section 351 of the Mumbai Municipal Corporation Act, 1888. This Court by order dated 10th March 2014, protected the suit premises qua notice under section 351 of the MMC Act, 1888.

2. During pendency of the present first appeal, the Corporation

has issued notice under section 354 of the Mumbai Municipal Corporation Act, 1888. It is well settled that scope of the proceedings arising out of notice under sections 351 and 354 of the MMC Act is different. The action under section 354 of the MMC Act operates in different sphere. Hence it is clarified that the order dated 10th March 2014 shall not come in the way of the Municipal Corporation to proceed with the notice under section 354, subject to availability of remedies to the aggrieved parties by way of appropriate proceedings before the appropriate court.

3. The interim application stands disposed of. No costs.
4. The appellant has already filed writ petition in this Court. It is clarified that this order shall not affect rights of the appellant to prosecute the writ petition in accordance with law.
5. The application for stay of this order is rejected as this order does not affect rights of the parties.

(AMIT BORKAR, J.)